S
342
C1C
v.12

TRANSCRIPT OF PROCEEDINGS

MONTANA CONSTITUTIONAL CONVENTION

March 20, 1972

to

March 25, 1972

Vol. XII

Convention Hall

State Capitol

Helena, Montana

TABLE OF CONTENTS

FIFTIETH DAY - Monday, March 20, 1972	8429
FIFTY-FIRST DAY - Tuesday, March 21, 1972	8669
FIFTY-SECOND DAY - Wednesday, March 22, 1972	8863
FIFTY-THIRD DAY - Thursday, March 23, 1972	9154
FIFTY-FOURTH DAY - Friday, March 24, 1972	9204

STATE PUBLISHING CO. HELENA, MONT.

MONTANA CONSTITUTIONAL CONVENTION

50TH CONVENTION DAY

Monday, March 20, 1972 — Convention Hall

9:32 o'clock, A.M. — Helena, Montana

PRESIDENT GRAYBILL: The convention will be in order. If you will all stand, John Anderson will lead us in the Pledge of Allegiance this morning.

DELEGATE J. ANDERSON: (Leading Pledge with Delegates joining in.)

PRESIDENT GRAYBILL: If you will remain standing, Rachell Mansfield will lead us in the invocation.

DELEGATE MANSFIELD: Let us pray. Blessed are they who are poor in spirit; theirs is the Kingdom of God. Blessed are they who are meek and humble; they will inherit the earth. Blessed are they who will mourn in sorrow; they will be comforted. Blessed are those who hunger and thirst for justice; they will be satisfied. Blessed are they who show more mercy; they will know mercy, too. Blessed are the hearts that are clean and Holy; they will behold the Lord. Blessed are they who bring peace among us; they are the children of God. Blessed are those who suffer from persecution; theirs is the Kingdom of God. Amen.

PRESIDENT GRAYBILL: We will take attendance this morning by voting Aye on the voting machine.

STATE PUBLISHING CO. HELENA, MONT.

CLERK HANSON: Mr. President, may Delegates Davis, Murray and Nutting be excused, please?

PRESIDENT GRAYBILL: They may.

CLERK HANSON; Delegate Arness, Delegate Cain, Delegate Delaney, Felegate Felt.

PRESIDENT GRAYBILL: Read them again, please.

CLERK HANSON: Delegate Arness, Delegate Delaney, Delegate Felt.

PRESIDENT GRAYBILL: Very well, take the attendance.

Aasheim	- Aye	Bowman	- Aye
Anderson, J.	- Aye	Brazier	- Aye
Anderson, O.	- Aye	Brown	- Aye
Arbanas	- Aye	Bugbee	- Aye
Arness	- Abs	Burkhardt	- Aye
Aronow	- Aye	Cain	- Aye
Artz	- Aye	Campbell	- Aye
Ask	- Aye	Cate	- Aye
Babcock	- Aye	Champoux	- Aye
Barnard	- Aye	Choate	- Aye
Bates	- Aye	Conover	- Aye
Belcher	- Aye	Cross	- Aye
Berg	- Aye	Dahood	- Aye
Berthelson	- Aye	Davis	- Abs
Blaylock	- Aye	Delaney	- Abs
Blend	- Aye	Driscoll	- Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Drum	- Aye	Kelleher	- Aye
2	Eck	- Aye	Leuthold	- Aye
3	Erdmann	- Aye	Loendorf	- Aye
4	Eskildsen	- Aye	Lorello	- Aye
5	Etchart	- Aye	Mahoney	- Aye
6	Felt	- Abs	Mansfield	- Aye
7	Foster	- Aye	Martin	- Aye
8	Furlong	- Aye	McCarvel	- Aye
9	Garlington	- Aye	McDonough	- Aye
10	Graybill	- Aye	McKeon	- Aye
11	Gysler	- Aye	McNeil	- Aye
12	Habedank	- Aye	Melvin	- Aye
13	Hanson, R. S.	- Aye	Monroe	- Aye
14	Hanson, R.	- Aye	Murray	- Abs
15	Harbaugh	- Aye	Noble	- Aye
16	Harlow	- Aye	Nutting	- Abs
17	Harper	- Aye	Payne	- Aye
18	Harrington	- Aye	Pemberton	- Aye
19	Heliker	- Aye	Rebal	- Aye
20	Holland	- Aye	Reichert	- Aye
21	Jacobsen	- Aye	Robinson	- Aye
22	James	- Aye	Roeder	- Aye
23	Johnson	- Aye	Rollins	- Aye
24	Joyce	- Aye	Romney	- Aye
25	Kamhoot	- Aye	Rygg	- Aye

STATE PUBLISHING CO. HELENA, MONT.

Scanlin	- Aye	Swanberg	- Aye
Schiltz	- Aye	Toole	- Aye
Siderius	- Aye	Van Buskirk	- Aye
Simon	- Aye	Vermillion	- Aye
Skari	- Aye	Wagner	- Aye
Sparks	- Aye	Ward	- Aye
Speer	- Aye	Warden	- Aye
Studer	- Aye	Wilson	- Aye
Sullivan	- Aye	Woodmansey	- Aye

CLERK HANSON: Mr. President, ninety-four Delegates present; three absent and three excused.

PRESIDENT GRAYBILL: Very well, the Journal may so show.

Before we go on the order of business today, I would like to make a short explanation. The Voter Education Committee has made arrangements to do some last minute filming and so we are going to have some lights again today. Now we are going to try and have the lights only for some short periods of time, but there will be some time when we are going to have them on; and they'll be off as soon as they stop filming, and it will not be for a half-hour like it is with video since they're filming on tape. I realize this light will make it very difficult for people while it's on, and I have already spoken with the film crew so that they will keep it on as little as possible. But we would rather get your shining faces in the camera than

STATE PUBLISHING CO. HELENA, MONT.

nothing, and it won't last very long; but please be aware of it and put up with it if you can.

Now, Order of Business Number One; Reports of Standing Committees.

CLERK HANSON: (Reading) Mr. President. We, your Committee on Style, Drafting, Transition and Submission, transmit herewith revisions of the Local Government Article number eleven for the consideration of the convention. Signed, Schiltz, Chairman. Mr. President. We, your Committee on Style, Drafting, Transition and Submission, transmit herewith revisions of General Government Article report number twelve for consideration of the convention. Signed, Schiltz, Chairman. (End reading) Mr. President.

PRESIDENT GRAYBILL: Very well, Local Government and General Government are accepted and referred to Order of Business Number Ten from Style and Drafting. Order of Business Number Two; Reports of Select Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Three; Communications.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Four; Introduction and Reference of Delegate Proposals.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Five;

STATE PUBLISHING CO. HELENA, MONT.

Final Consideration. There is none until we finish these two that we just got on Order of Business Number Ten, so there's none there. Six; Adoption.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Seven; Motions and Resolutions. Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move we take proposal number five, Judiciary, from Style and Drafting and place it on General Orders. I do this so that it will be in the proper order of business when we do discuss it again and if we do reconsider and if we do make a motion to suspend the rules.

PRESIDENT GRAYBILL: For the information of the body, we will at this time move to have Judiciary placed on General Orders and after that we will move to have Revenue and Finance placed on General Orders to take care of the two matters that arose on Saturday. You may do as you please, but that's the purpose of Mr. Eskildsen's motion and it is: To move Judiciary Article on to General Orders from Style and Drafting. All in favor of that motion say --

Mrs. Warden. Are you up?

DELEGATE WARDEN: No.

PRESIDENT GRAYBILL: Incidently, Mr. Arness, your presence will be noted for the Journal. All those in favor of moving the Judiciary Article from Style and Drafting to General

STATE PUBLISHING CO. HELENA, MONT.

Orders, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: The Chair is in doubt. All those in favor vote Aye and all those opposed vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Sixty-five having voted Aye and twenty-five having voted No, Judiciary is moved to Order of Business Number Ten. Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move we take proposal number seven, Revenue and Finance, from Style and Drafting and place it on General Orders, Order of Business Number Ten for the same purpose.

PRESIDENT GRAYBILL: The motion is to move Revenue and Finance proposal from Style and Drafting to General Orders. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: The Ayes have it and it is so

STATE PUBLISHING CO. HELENA, MONT.

ordered. So those two are now on Order of Business Number Ten. Are there other motions or resolutions?

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number Eight; Unfinished Business.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Nine; Special Orders.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Ten. Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move the convention resolve itself into a Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to move this convention into a Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: It is so ordered.

(Committee of the Whole)

CLERK HANSON: Mr. President. March 20, 1072. The following committee proposals are now on General Orders: Local Government, General Government, Judiciary, Revenue and Finance.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: The Chair would propose, unless there is objection, to taking up the Judiciary and Revenue and Finance matters first. Very well, the Chair is open to a motion. Mr. Aronow.

DELEGATE ARONOW: Mr. President. I move that we suspend the rules under the Judiciary Article for the limited, and the purpose only of adding a section dealing with the clerk of the supreme court. You've had the sense of the proposal on your desks on Saturday; and if successful in suspending the rules, we will then move to reconsider for the purpose of adding a section providing for the office of the clerk of the supreme court and his election. Thank you.

CHAIRMAN GRAYBILL: Mr. Aronow, do you have any extra copies of that? The Chair and the Clerk don't have copies.

DELEGATE ARONOW: Yes, I have one more.

CHAIRMAN GRAYBILL: The issue is on Mr. Aronow's motion to suspend the rules to add a section. If you happen to have Mr. Aronow's material before you -- we would not add it to the General Government, we crossed that the other day. We would add it to Judiciary, but the sense of his proposal is contained in that material that he gave us last Saturday: In the judicial department there shall be a clerk of the supreme court who shall hold office for a term of six years. He shall be elected by the electors at large of the state. Is there

STATE PUBLISHING CO. HELENA, MONT.

discussion of the motion to suspend the rules and discussion of that point only? (No response) All right, we are ready to vote on it. Does anyone want a roll call vote? Mr. McKeon wants a roll call vote. Mrs. Pemberton.

DELEGATE PEMBERTON: I just wanted to talk.

CHAIRMAN GRAYBILL: Very well, you may discuss the motion to suspend the rules.

DELEGATE PEMBERTON: At this point I would like to know exactly where we are in suspending the rules for the clerk of the supreme court? Mr. Aronow, would you answer a question for me, please?

DELEGATE ARONOW: I'll yield, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Pemberton.

DELEGATE PEMBERTON: Thank you very much. I wrote you a note but I didn't get it there in time. In suspending the rules for the clerk of the supreme court, this was deleted by the vote of the delegation, is that right?

DELEGATE ARONOW: That is correct.

DELEGATE PEMBERTON: And it was left out of the Constitution?

DELEGATE ARONOW: That is correct, Mrs. Pemberton.

DELEGATE PEMBERTON: In that vote when we were discussing the clerk of the supreme court and other officers, this was the only one that was left out of the Constitution?

DELEGATE ARONOW: No, there was one other and that

STATE PUBLISHING CO. HELENA, MONT.

was the state treasurer.

DELEGATE PEMBERTON: Yes, that's right.

DELEGATE ARONOW: But that involves no problem due to the fact that the state treasurer may not run to succeed himself. And this is the only office -- at that time I think we were strongly considering a short ballot; and then we changed our minds and we did leave out the clerk of the court which seems a discriminatory type of thing.

DELEGATE PEMBERTON: I think that's why -- would I be out of order in putting in another motion at this time?

CHAIRMAN GRAYBILL: Well, it's got to be another motion to suspend the rules.

DELEGATE PEMBERTON: After the consideration to suspend the rules, if that should go through?

CHAIRMAN GRAYBILL: I don't know the nature of your motion, Mrs. Pemberton.

DELEGATE PEMBERTON: Would you like to hear it?

CHAIRMAN GRAYBILL: Well, Mrs. Pemberton, we have a motion to suspend the rules for the limited purpose of considering the clerk of the supreme court. Do you want to enlarge the purpose, is that your --

DELEGATE PEMBERTON: No, it is not to enlarge the purpose. It is to appoint a clerk of the supreme court instead of electing him.

CHAIRMAN GRAYBILL: The Chair has Mr. Aronow's

STATE PUBLISHING CO. HELENA, MONT.

purpose as to add a section concerning the clerk of the supreme court. Mr. Aronow, I realize you have suggested language, but the Chair is about to rule, unless you object; do you want to make it only to elect him, Mr. Aronow?

DELEGATE ARONOW: That's my purpose at this moment, yes.

CHAIRMAN GRAYBILL: The Chair will take the view that you have to put the narrowest one first and, therefore, the purpose for which he is opening is suspending the rules. Now, Mrs. Pemberton, yours is to elect -- is to put in a section that would require the election of the clerk of the supreme court. Now, if you want to amend his motion to suspend the rules, you may, and then we'll put that to the body first and if that passes fine, and if not we'll go to his. Do you want to put in, to elect or appoint -- I mean, do you want to --

DELEGATE PEMBERTON: I would like very much to put in an amendment to appoint a clerk of the supreme court. I have words for that if you would like to have them.

CHAIRMAN GRAYBILL: No, I think I know enough. That's your purpose, right?

DELEGATE PEMBERTON: Right.

CHAIRMAN GRAYBILL: So the body understands the situation, Mr. Aronow made a motion to suspend the rules to add a section concerning the clerk of the supreme court by election. Mrs. Pemberton has now made a substitute motion to suspend the

STATE PUBLISHING CO. HELENA, MONT.

rules and add a section concerning the clerk of the supreme court by appointment. Does everyone understand the situation? We will vote on Mrs. Pemberton's first.

Mr. Harbaugh.

DELEGATE HARBAUGH: Could I ask a question of Mrs. Pemberton?

CHAIRMAN GRAYBILL: You may.

DELEGATE PEMBERTON: Yes, sir.

DELEGATE HARBAUGH: Appointment by whom?

DELEGATE PEMBERTON: Appointment by the supreme court.

CHAIRMAN GRAYBILL: Is there a roll call desired on Mrs. Pemberton's motion? Mr. Holland.

DELEGATE HOLLAND: I move for a roll call vote.

CHAIRMAN GRAYBILL: We will take a roll call vote on Mrs. Pemberton's motion. All those in favor of suspending the rules to add a section concerning the clerk of the supreme court by appointment, vote Aye. Opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, close the ballot.

Aasheim - Nay

Anderson, J. - Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Anderson, O.	- Nay	Cross	- Aye
2	Arbanas	- Aye	Dahood	- Nay
3	Arness	- Nay	Davis	- Abs
4	Aronow	- Nay	Delaney	- Abs
5	Artz	- Nay	Driscoll	- Nay
6	Ask	- Nay	Drum	- Nay
7	Babcock	- Aye	Eck	- Aye
8	Barnard	- Nay	Erdmann	- Aye
9	Bates	- Nay	Eskildsen	- Nay
10	Belcher	- Aye	Etchart	- Aye
11	Berg	- Aye	Felt	- Abs
12	Berthelson	- Aye	Foster	- Aye
13	Blaylock	- Aye	Furlong	- Nay
14	Blend	- Aye	Garlington	- Nay
15	Bowman	- Nay	Graybill	- Nay
16	Brazier	- Nay	Gysler	- Nay
17	Brown	- Aye	Habedank	- Aye
18	Bugbee	- Aye	Hanson, R. S.	- Nay
19	Burkhardt	- Aye	Hanson, R.	- Nay
20	Cain	- Nay	Harbaugh	- Aye
21	Campbell	- Nay	Harlow	- Aye
22	Cate	- Nay	Harper	- Nay
23	Champoux	- Nay	Harrington	- Nay
24	Choate	- Aye	Heliker	- Nay
25	Conover	- Nay	Holland	- Nay

STATE PUBLISHING CO. HELENA, MONT.

Jacobsen	- Aye		Reichert	- Nay
James	- Aye		Robinson	- Nay
Johnson	- Aye		Roeder	- Nay
Joyce	- Nay		Rollins	- Nay
Kamhoot	- Nay		Romney	- Nay
Kelleher	- Nay		Rygg	- Nay
Leuthold	- Aye		Scanlin	- Aye
Loendorf	- Nay		Schiltz	- Nay
Lorello	- Nay		Siderius	- Nay
Mahoney	- Nay		Simon	- Nay
Mansfield	- Aye		Skari	- Aye
Martin	- Nay		Sparks	- Aye
McCarvel	- Nay		Speer	- Aye
McDonough	- Nay		Studer	- Aye
McKeon	- Nay		Sullivan	- Nay
McNeil	- Nay		Swanberg	- Abs
Melvin	- Nay		Toole	- Nay
Monroe	- Aye		Van Buskirk	- Nay
Murray	- Abs		Vermillion	- Nay
Noble	- Nay		Wagner	- Nay
Nutting	- Abs		Ward	- Aye
Payne	- Aye		Warden	- Aye
Pemberton	- Aye		Wilson	- Abs
Rebal	- Nay		Woodmansey	- Aye

CHAIRMAN GRAYBILL: Mr. Dahood.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE DAHOOD: Mr. Chairman. I inadvertently pressed the wrong button; I want to vote Nay on this particular motion.

CHAIRMAN GRAYBILL: Very well, the vote not having been announced, Mr. Dahood may be shown as voting Nay.

CLERK HANSON: Mr. President. Thirty-five Delegates voting Aye, fifty-eight voting No.

CHAIRMAN GRAYBILL: Fifty-eight having voted No and thirty-five, Aye, Mrs. Pemberton's motion is defeated. We're now on Mr. Aronow's motion to suspend the rules to add a section concerning the clerk of court be selected by election.

Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman. I would like to expand the motion of Mr. Aronow's a little bit by adding these words -- we all realize why we are suddenly desirous of having the supreme court office elected and I think this will solve our dilemma and still give us back to our original thinking that if I add these words after Mr. Aronow's: The clerk of supreme court's office shall be elected only so long as Tom Kearney holds office. (Laughter) Thereafter the office shall be appointed by the supreme court. If you do not wish to be so specific, however, I think it wouldn't hurt to have Tom Kearney's name in the Constitution, take off his and say, so long as the present encumbent holds office.

CHAIRMAN GRAYBILL: All right, I take it to be you

STATE PUBLISHING CO. HELENA, MONT.

want to make a substitute motion to Mr. Aronow's, is that right, Mr. Harlow?

DELEGATE HARLOW: Yes, Mr. Chairman. I'll move that this be added to --

CHAIRMAN GRAYBILL: See if I have stated it right. You want to suspend the rules to add a section concerning the clerk of court to be elected until the encumbent is no longer elected -- or to be elected for the -- as long as the encumbent holds office, is that right?

DELEGATE HARLOW: Yes. And from thereon the office shall be appointed by the supreme court.

CHAIRMAN GRAYBILL: And thereafter appointed?

DELEGATE HARLOW: Yes.

CHAIRMAN GRAYBILL: Mr. Aronow, would you like to talk to that?

DELEGATE ARONOW: Mr. Chairman. I resist the amendment on the ground that I don't think that the offered amendment is made in good faith. Besides that it's not good constitutional law; it has no place in the Constitution and I hope that the Delegates will vote against the amendment made by Mr. Harlow.

CHAIRMAN GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: Mr. President and fellow Delegates. You know, if this is really the problem I think we are wasting time in this convention. If the real problem is this

STATE PUBLISHING CO. HELENA, MONT.

one gentlemen, I am sure that Style and Drafting can take care of this in the Transitional Article by providing that present office holders, until their term expires -- this will take care of it. If that's all there is to it, leave it to Style and Drafting. Thank you.

CHAIRMAN GRAYBILL: Now, we're not going to discuss the substance, but if you want to discuss Mr. Harlow's motion to suspend the rules, okay. Mr. Harper.

DELEGATE HARPER: May I ask a question, Mr. Chairman, that would have something to do with how I vote on any of these things, and maybe to clear up a point. If we remove an office from the Constitution that's in the present Constitution that now is an elected office like this one, does this mean that automatically there will be no election, or does the legislature still have the choice? For example, could the treasurer appear on a ballot as long as the legislature decided that it should be an elective office, or when he's not mentioned in the Consitution, is he automatically --

CHAIRMAN GRAYBILL: I think your question is substantive and I don't know who wants to answer it, but I'll take a shot at it. I think we're merely removing it from the Constitution and the office -- but I haven't checked the statutes to see whether the clerk of the court is statutory, but I presume he's also statutory. If anybody knows to the contrary, I wish they'd clear me up. Mr. Mahoney.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE MAHONEY: Mr. Chairman. I would have to resist this motion. Now, either we make a decision to elect the clerk of the supreme court or we don't. This would be awful; I mean you wouldn't -- Mr. Kearney wouldn't know whether he could run or not. I mean this would be a very touchy thing and if somebody else come along -- now I think we've got to come out here under -- and go under the Aronow motion and vote it up or down. This is my thinking and I would hesitate to see it for one man. This is not in the Constitution but the legislature could do it.

CHAIRMAN GRAYBILL: Are you ready to vote, a roll call has been demanded?

Mr. Harlow.

DELEGATE HARLOW: Just one remark. Mr. Aronow said that my motion was not made in good faith; it is made in good faith. This was not a facetious motion as we know that we are sympathetic to the present encumbent; we're not sympathic to having the office elective. Thank you.

CHAIRMAN GRAYBILL: Has a roll call been demanded on Mr. Harlow's motion? Mr. Studer, you demand one, okay. So many as are in favor of Mr. Harlow's motion which is to suspend the rules to add a section on the clerk of court to be elected as long as the present encumbent is there, and thereafter to be appointed, please vote Aye and opposed vote No. Has every Delegate voted?

STATE PUBLISHING CO. HELENA, MONT.

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim	- Nay	Burkhardt	- Nay
Anderson, J.	- Nay	Cain	- Nay
Anderson, O.	- Nay	Campbell	- Aye
Arbanas	- Aye	Cate	- Nay
Arness	- Nay	Champoux	- Nay
Aronow	- Nay	Choate	- Nay
Artz	- Nay	Conover	- Nay
Ask	- Nay	Cross	- Aye
Babcock	- Nay	Dahood	- Nay
Barnard	- Nay	Davis	- Abs
Bates	- Nay	Delaney	- Abs
Belcher	- Nay	Driscoll	- Nay
Berg	- Nay	Drum	- Nay
Berthelson	- Aye	Eck	- Nay
Blaylock	- Nay	Erdmann	- Aye
Blend	- Nay	Eskildsen	- Nay
Bowman	- Nay	Etchart	- Nay
Brazier	- Abs	Felt	- Abs
Brown	- Nay	Foster	- Nay
Bugbee	- Nay	Furlong	- Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Garlington	- Nay
2	Graybill	- Nay
3	Gysler	- Nay
4	Habedank	- Aye
5	Hanson, R. S.	- Nay
6	Hanson, R.	- Nay
7	Harbaugh	- Nay
8	Harlow	- Aye
9	Harper	- Nay
10	Harrington	- Nay
11	Heliker	- Nay
12	Holland	- Nay
13	Jacobsen	- Nay
14	James	- Aye
15	Johnson	- Aye
16	Joyce	- Aye
17	Kamhoot	- Nay
18	Kelleher	- Aye
19	Leuthold	- Nay
20	Loendorf	- Nay
21	Lorello	- Nay
22	Mahoney	- Nay
23	Mansfield	- Nay
24	Martin	- Nay
25	McCarvel	- Nay
	McDonough	- Nay
	McKeon	- Nay
	McNeil	- Nay
	Melvin	- Aye
	Monroe	- Aye
	Murray	- Abs
	Noble	- Nay
	Nutting	- Abs
	Payne	- Aye
	Pemberton	- Aye
	Rebal	- Nay
	Reichert	- Nay
	Robinson	- Abs
	Roeder	- Nay
	Rollins	- Aye
	Romney	- Nay
	Rygg	- Nay
	Scanlin	- Aye
	Schiltz	- Nay
	Siderius	- Nay
	Simon	- Nay
	Skari	- Nay
	Sparks	- Nay
	Speer	- Abs
	Studer	- Nay

STATE PUBLISHING CO. HELENA, MONT.

Sullivan	- Nay	Wagner	- Nay
Swanberg	- Abs	Ward	- Abs
Toole	- Aye	Warden	- Nay
Van Buskirk	- Nay	Wilson	- Nay
Vermillion	- Nay	Woodmansey	- Nay

CLERK HANSON: Mr. President. Eighteen voting Aye, seventy-two voting No.

CHAIRMAN GRAYBILL: Seventy-two having voted No and only eighteen having voted Aye, that motion is defeated. We are back on Mr. Aronow's original motion to suspend the rules to add a section concerning the clerk of the supreme court be elected.

Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, just a point of clarification. Section nine of our present Article Eight does provide a constitutional position for the clerk of the supreme court to be elected for six years.

CHAIRMAN GRAYBILL: What are you talking about, section nine of what?

DELEGATE CHOATE: Section nine of Article Eight of the present Judicial Article in our present Constitution does provide for that office, constitutionally for a six-year term.

CHAIRMAN GRAYBILL: Now you've raised a question which I don't think is correct, Mr. Choate, so the Chair will

STATE PUBLISHING CO. HELENA, MONT.

check it. Oh, the present Constitution, I thought you meant the one we'd adopted, okay. Mr. James.

DELEGATE JAMES: Mr. Chairman. Would Mr. Aronow yield?

CHAIRMAN GRAYBILL: Mr. Aronow?

DELEGATE ARONOW: I'll yield, Mr. Chairman.

DELEGATE JAMES: Cedor, if Tom Kearney is selected, as I assume he will be in the primary, he will run this fall for a six-year term, is that right?

DELEGATE ARONOW: I don't know whether his term expires at this time or not, but when he does run he will run for the six-year term if my motion to suspend the rules carries and if the motion to reconsider carries, and then you decide here and the new Constitution is adopted. Under the old Constitution he would run for a six-year term, that is correct.

DELEGATE JAMES: Will Mr. Aronow yield?

CHAIRMAN GRAYBILL: He may, but the Chair is going to be awfully strict on making it concerning the motion to suspend the rules and not the substance of the matter.

DELEGATE ARONOW: I yield.

DELEGATE JAMES: Okay, I was going to ask something on the substance and not the rules.

CHAIRMAN GRAYBILL: Try and stay off the substance, everybody understands what the purpose of the motion is.

Mrs. Robinson.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ROBINSON: Mr. President. I would like to speak in opposition to the motion to reconsider -- to suspend the rules, rather. It makes no difference, the Revised Codes of Montana in Title eighty-two, beginning at chapter five, clearly stipulate that there must be a clerk of the supreme court who must be elected by the electors at large of the state, and hold this office for a term of six years, until the legislature acts at some time in the future there will continue to be a clerk of the supreme court elected by the state of Montana regardless of what we do in the Constitution, since we did not reconsider to make it an appointed office.

CHAIRMAN GRAYBILL: We will have a roll call vote. So many as are in favor of Mr. Aronow's motion to suspend the rules to add a section concerning the clerk of the supreme court be elected, vote Aye and so many as are opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim	- Aye	Arness	- Nay
Anderson, J.	- Aye	Aronow	- Aye
Anderson, O.	- Nay	Artz	- Aye
Arbanas	- Nay	Ask	- Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Babcock	- Aye	Eck	- Nay
2	Barnard	- Aye	Erdmann	- Aye
3	Bates	- Aye	Eskildsen	- Aye
4	Belcher	- Abs	Etchart	- Aye
5	Berg	- Aye	Felt	- Abs
6	Berthelson	- Nay	Foster	- Nay
7	Blaylock	- Nay	Furlong	- Nay
8	Blend	- Nay	Garlington	- Nay
9	Bowman	- Nay	Graybill	- Nay
10	Brazier	- Abs	Gysler	- Aye
11	Brown	- Nay	Habedank	- Nay
12	Bugbee	- Nay	Hanson, R. S.	- Aye
13	Burkhardt	- Nay	Hanson, R.	- Aye
14	Cain	- Aye	Harbaugh	- Nay
15	Campbell	- Nay	Harlow	- Nay
16	Cate	- Nay	Harper	- Nay
17	Champoux	- Nay	Harrington	- Aye
18	Choate	- Aye	Heliker	- Nay
19	Conover	- Aye	Holland	- Aye
20	Cross	- Nay	Jacobsen	- Aye
21	Dahood	- Aye	James	- Nay
22	Davis	- Abs	Johnson	- Nay
23	Delaney	- Abs	Joyce	- Aye
24	Driscoll	- Aye	Kamhoot	- Aye
25	Drum	- Aye	Kelleher	- Aye

STATE PUBLISHING CO. HELENA, MONT.

Leuthold	- Nay	Rollins	- Nay
Loendorf	- Nay	Romney	- Aye
Lorello	- Aye	Rygg	- Aye
Mahoney	- Aye	Scanlin	- Nay
Mansfield	- Nay	Schiltz	- Aye
Martin	- Aye	Siderius	- Aye
McCarvel	- Aye	Simon	- Nay
McDonough	- Nay	Skari	- Nay
McKeon	- Aye	Sparks	- Nay
McNeil	- Aye	Speer	- Nay
Melvin	- Nay	Studer	- Nay
Monroe	- Aye	Sullivan	- Aye
Murray	- Abs	Swanberg	- Nay
Noble	- Aye	Toole	- Nay
Nutting	- Abs	Van Buskirk	- Aye
Payne	- Nay	Vermillion	- Aye
Pemberton	- Nay	Wagner	- Nay
Rebal	- Aye	Ward	- Nay
Reichert	- Nay	Warden	- Nay
Robinson	- Nay	Wilson	- Aye
Roeder	- Nay	Woodmansey	- Nay

CLERK HANSON: Mr. Chairman, forty-four Delegates voting Aye, forty-nine voting No.

CHAIRMAN GRAYBILL: Forty-nine Delegates voting No, the motion to suspend the rules is defeated. The Chair will

STATE PUBLISHING CO. HELENA, MONT.

entertain a motion from Mr. Rygg concerning Revenue and Finance.

DELEGATE RYGG: I believe the Clerk has it there if you want to read it.

CHAIRMAN GRAYBILL: Well --

DELEGATE RYGG: All right. I move to suspend the rules, and my purpose is to make a motion to reconsider subsection two of section six of Revenue and Finance Article for the specific and limited purpose only of striking the last twelve words thereof. Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Rygg, excuse me, would you restate your motion, I was interrupted.

DELEGATE RYGG: My motion is to suspend the rules, Mr. Chairman.

CHAIRMAN GRAYBILL: For what purpose?

DELEGATE RYGG: My purpose would then be, if it should carry through reconsideration, to make a motion to reconsider subsection two of section six of the Revenue and Finance Article for the specific and limited purposes only of striking the last twelve words thereof.

CHAIRMAN GRAYBILL: Very well, the Chair understands that you want to make a motion to suspend the rules so that this body can reconsider Revenue and Finance, section six, sub two, for the specific purpose of striking twelve words. Is that correct?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE RYGG: That's correct, Mr. Chairman.

CHAIRMAN GRAYBILL: Do you have some discussion, Mr. Rygg?

DELEGATE RYGG: I'll be very brief. I would like to state the reason for this though if I may. Apparently the Revenue and Finance Committee invaded the general government territory when we put in these last twelve words; and the majority of the committee believes we would be better off by retreating from this general government domain. Now, we admit that deleting these twelve words will make a substantive change, because having this initiative was an extra safeguard, that's true. On the other hand I seriously doubt if this initiative would ever be used because with only a sixty percent majority needed, I honestly feel that the electorate could influence their legislators enough to get this three-fifths vote and they would not have to go the initiative route. Now the initiative, of course, would still be available under General Government's Article although it would be a little bit more difficult under that Article, I will admit. But I do believe that because of the fact that it is only a three-fifths vote and that the people I think could get the legislators to do that, I think that in order to avoid confusion and have any ambiguity at all in the two articles, I think we would be better off in sacrificing this small safeguard and correcting the Constitution to that extent. Thank you, Mr. Chairman.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: All right, now I think the body understands that Mr. Rygg wants to suspend the rules for the specific purpose of amending Revenue and Finance, sub two, to strike twelve words and that it does make a substantive change. Is there other discussion about the motion to suspend the rules only? Mr. Loendorf.

DELEGATE LOENDORF: Mr. Chairman. I support the motion to suspend the rules for this purpose. The result of it will remove what I think is a clear conflict between this section and section four of the General Government report number twelve; and I don't think we should let our fear of possibly opening up a whole article keep us from making this correction. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow Delegates. I resist the motion as stated; I think that this is a much too narrow a limitation to really consider the subject that we have before us which is, as I understand it, at least two-fold, one in stating language which expresses the intent of the original majority position of the committee and the original vote taken by this body. I would move to amend the motion of Delegate Rygg by stating deleting or clarifying the last twelve words of the section.

CHAIRMAN GRAYBILL: To delete or clarify the last twelve words of section six, sub two, is that right, Mr.

STATE PUBLISHING CO. HELENA, MONT.

Foster?

DELEGATE FOSTER: Yes, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Foster now has a substitute motion to delete or clarify -- to suspend the rules for the purpose of deleting or clarifying the last twelve words of section six, sub two. Mr. Foster, if you can, discuss that without getting off the suspension of the rules.

DELEGATE FOSTER: I would speak simply to the point that I think there was some confusion expressed in exactly what these words were intended for, and I think the basic intent of Mr. Rygg was to clarify a confusing point; and I think if we limit it to deleting it that in fact we have limited it unnecessarily; and that we should be also allowed to consider it before this body clarifying the words. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: Mr. Chairman. I would like to resist the substitute motion just for this reason, that we tried several times on Saturday to get language that would clarify this and still be in conformity with section four of general government. We were unable to do so. We did talk to one member of the General Government Committee and it was his, I don't think the committee maybe, but at least it was his, and I don't know about the rest of them, that about the only way we could do would be to delete it so we would be in conformity. So we

STATE PUBLISHING CO. HELENA, MONT.

just feel that there isn't any way we can make it clear and that is why we have taken this route, so I resist the motion. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President. I resist the motion to amend. I think the Revenue and Finance Committee has taken the only alternative for clarification. If you look at what they have done, they're striking, or by initiated measure approved by a majority of the qualified electors. Under the General Government Article initiation is possible now to amend the Constitution, and unless you're going to have a hopeless conflict between the two it is necessary to have this whole phrase stricken, and I think the approach taken by the Revenue and Finance Committee is the only plausible one; otherwise, you will be trying to write legislation on this floor which is just going to get us into more trouble. The solution they have made is clear, it's unequivocal, and I think we should support them in this. Further, I think the Local Government Committee was led to believe by a lot of people that this would be taken care of when it reached this point of our convention. Thank you, Mr. President.

CHAIRMAN GRAYBILL: Is there other discussion; if not, we'll have a vote, and I presume someone wants a roll call? Mr. Foster does. Any other discussion? Very well, the issue is on Mr. Foster's motion to suspend the rules to delete

STATE PUBLISHING CO. HELENA, MONT.

or clarify the last twelve words of section six, sub two. So many as shall be in favor of that, vote Aye; so many as shall be opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Very well, take the -- Mr. Scanlin, for what purpose do you rise?

DELEGATE SCANLIN: For a little more clarification.

CHAIRMAN GRAYBILL: You are out of order. You may only rise to explain your vote at this time. I'm sorry.

DELEGATE SCANLIN: Can I cancel my vote out?

CHAIRMAN GRAYBILL: No, you can't cancel your vote out, I've closed it but I haven't taken it. Does anybody else want to explain their vote before we take it?

(No response)

CHAIRMAN GRAYBILL: You may cast the ballot, Mr. Clerk. Once I push the button, you can't change it and you can't explain it until we announce it.

Aasheim	- Nay	Arbanas	- Nay
Anderson, J.	- Nay	Arness	- Aye
Anderson, O.	- Nay	Aronow	- Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Artz	- Aye	Driscoll	- Abs
2	Ask	- Abs	Drum	- Nay
3	Babcock	- Aye	Eck	- Aye
4	Barnard	- Nay	Erdmann	- Nay
5	Bates	- Aye	Eskildsen	- Aye
6	Belcher	- Nay	Etchart	- Nay
7	Berg	- Nay	Felt	- Abs
8	Berthelson	- Nay	Foster	- Aye
9	Blaylock	- Nay	Furlong	- Aye
10	Blend	- Nay	Garlington	- Aye
11	Bowman	- Nay	Graybill	- Nay
12	Brazier	- Abs	Gysler	- Nay
13	Brown	- Nay	Habedank	- Nay
14	Bugbee	- Nay	Hanson, R. S.	- Nay
15	Burkhardt	- Aye	Hanson, R.	- Nay
16	Cain	- Nay	Harbaugh	- Nay
17	Campbell	- Abs	Harlow	- Aye
18	Cate	- Aye	Harper	- Aye
19	Champoux	- Aye	Harrington	- Abs
20	Choate	- Nay	Heliker	- Nay
21	Conover	- Aye	Holland	- Nay
22	Cross	- Nay	Jacobsen	- Nay
23	Dahood	- Nay	James	- Aye
24	Davis	- Abs	Johnson	- Nay
25	Delaney	- Abs	Joyce	- Nay

STATE PUBLISHING CO. HELENA, MONT.

Kamhoot	- Nay		Roeder	- Nay
Kelleher	- Aye		Rollins	- Nay
Leuthold	- Nay		Romney	- Nay
Loendorf	- Nay		Rygg	- Nay
Lorello	- Nay		Scanlin	- Aye
Mahoney	- Aye		Schiltz	- Aye
Mansfield	- Aye		Siderius	- Aye
Martin	- Nay		Simon	- Nay
McCarvel	- Nay		Skari	- Nay
McDonough	- Nay		Sparks	- Nay
McKeon	- Nay		Speer	- Nay
McNeil	- Nay		Studer	- Nay
Melvin	- Nay		Sullivan	- Aye
Monroe	- Aye		Swanberg	- Aye
Murray	- Abs		Toole	- Aye
Noble	- Nay		Van Buskirk	- Aye
Nutting	- Abs		Vermillion	- Nay
Payne	- Nay		Wagner	- Nay
Pemberton	- Nay		Ward	- Nay
Rebal	- Nay		Warden	- Nay
Reichert	- Nay		Wilson	- Aye
Robinson	- Nay		Woodmansey	- Nay

CLERK HANSON: Mr. Chairman, twenty-nine Delegates voting Aye, sixty-one voting No.

CHAIRMAN GRAYBILL: Sixty-one having voted No and

STATE PUBLISHING CO. HELENA, MONT.

twenty-nine having voted Aye, that motion is defeated. We are now on Mr. Rygg's original motion to suspend the rules to move that section six, sub two, be reconsidered and amended by striking the last twelve words only. Is there further discussion? Mr. Scanlin, is there anything you want clarified?

DELEGATE SCANLIN: No.

CHAIRMAN GRAYBILL: Okay. Roll call vote? A roll call vote, very well. So many as shall be in favor of Mr. Rygg's motion to suspend the rules, please vote Aye; so many as shall be opposed, please vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Cast the ballot.

Aasheim	- Aye	Barnard	- Aye
Anderson, J.	- Aye	Bates	- Aye
Anderson, O.	- Aye	Belcher	- Aye
Arbanas	- Aye	Berg	- Aye
Arness	- Aye	Berthelson	- Aye
Aronow	- Nay	Blaylock	- Aye
Artz	- Nay	Blend	- Aye
Ask	- Aye	Bowman	- Aye
Babcock	- Aye	Brazier	- Abs

STATE PUBLISHING CO. HELENA, MONT.

1	Brown	- Aye	Habedank	- Aye
2	Bugbee	- Aye	Hanson, R. S.	- Aye
3	Burkhardt	- Aye	Hanson, R.	- Aye
4	Cain	- Aye	Harbaugh	- Aye
5	Campbell	- Abs	Harlow	- Aye
6	Cate	- Aye	Harper	- Aye
7	Champoux	- Nay	Harrington	- Abs
8	Choate	- Aye	Heliker	- Aye
9	Conover	- Aye	Holland	- Aye
10	Cross	- Aye	Jacobsen	- Abs
11	Dahood	- Aye	James	- Aye
12	Davis	- Abs	Johnson	- Aye
13	Delaney	- Abs	Joyce	- Aye
14	Driscoll	- Abs	Kamhoot	- Aye
15	Drum	- Aye	Kelleher	- Aye
16	Eck	- Aye	Leuthold	- Aye
17	Erdmann	- Aye	Loendorf	- Aye
18	Eskildsen	- Aye	Lorello	- Aye
19	Etchart	- Aye	Mahoney	- Aye
20	Felt	- Abs	Mansfield	- Aye
21	Foster	- Nay	Martin	- Nay
22	Furlong	- Nay	McCarvel	- Aye
23	Garlington	- Aye	McDonough	- Aye
24	Graybill	- Aye	McKeon	- Aye
25	Gysler	- Aye	McNeil	- Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

Melvin	- Aye	Siderius	- Aye
Monroe	- Nay	Simon	- Aye
Murray	- Abs	Skari	- Aye
Noble	- Aye	Sparks	- Aye
Nutting	- Abs	Speer	- Aye
Payne	- Aye	Studer	- Aye
Pemberton	- Aye	Sullivan	- Aye
Rebal	- Aye	Swanberg	- Aye
Reichert	- Aye	Toole	- Nay
Robinson	- Aye	Van Buskirk	- Nay
Roeder	- Aye	Vermillion	- Aye
Rollins	- Aye	Wagner	- Aye
Romney	- Aye	Ward	- Aye
Rygg	- Aye	Warden	- Aye
Scanlin	- Aye	Wilson	- Aye
Schiltz	- Aye	Woodmansey	- Aye

CLERK HANSON: Mr. Chairman, eighty-one Delegates voting Aye, nine voting No.

CHAIRMAN GRAYBILL: Eighty-one Delegates having voted Aye and nine Delegates having voted No, the rules are suspended and we will consider Revenue and Finance, section six, sub two.

Mr. Rygg.

DELEGATE RYGG: Mr. Chairman. Having voted on the prevailing side, I move to reconsider subsection two of section six, Revenue and Finance Article, for the specific and

STATE PUBLISHING CO. HELENA, MONT.

limited purpose only of striking the last twelve words thereof. Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Rygg moves to reconsider section six, sub two, of the Revenue and Finance Article for the specific purpose of striking the last twelve words. Mr. Rygg.

DELEGATE RYGG: I don't believe there is any further explanation needed at this time. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: This motion is on reconsideration only and not on the matter. Is there further discussion? (No response) All in favor of reconsidering section six, sub two, for that purpose say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Mr. Rygg.

DELEGATE RYGG: I move to amend subsection two of section six on line sixteen of page two, by inserting a period after the word, legislature, and eliminating the last twelve words.

CHAIRMAN GRAYBILL: Would you give me your page reference again?

DELEGATE RYGG: On the final draft, Order of Business Number Five, Final Consideration, number seven, it's on page two, line sixteen.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: If you happen to have that before you, that's the Order of Business Number Five on page two, line sixteen. Put a period after the word, legislature. If you have your other books, it's in subsection two. Put a period after the word, legislature, and strike, or by initiative measure approved by a majority of the qualified voters. That's the motion, to amend section six, sub two, by striking the last twelve words, which has the effect of striking the initiative by the people language.

Mr. Rygg.

DELEGATE RYGG: Mr. Chairman. I don't believe I should spend much time on this. I think the explanation I gave is the only one I can give; that we were unable to clarify this and the only solution we see is to delete these twelve words, which we admit is a substantive change but we feel in the interest of having less ambiguity in the Constitution, it would be in the best interest to let this small safeguard go. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Is there any other discussion? Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow Delegates. I'll try and be as brief as possible on this. My primary objection to this motion is that the strongest argument that was made for having anything at all in this Constitution to give special interest, special consideration to the highway group

STATE PUBLISHING CO. HELENA, MONT.

was that this was something that was needed by the people of Montana; this is something that was popular; this is something that everyone felt was important; this is something that everyone felt we had to have. At the time that this initiative provision was put in, it was the thinking of this body that at the time when this was no longer needed, the time when this was no longer necessary -- as everyone realizes, it will become necessary in the very near future -- that then the people would have an easy opportunity of removing it. We have just taken that opportunity away from them if we approve this particular provision to take it out again because, in fact, we have constitutionalized the advantage, the special interest, the special consideration for the highways, because it will then have the same status as any other provision in the Constitution. In other words, if it is necessary for the people to take it out, they would have to do the same as any other amendment to the Constitution. We have the situation that we've given a super majority to the special highway interests in the legislature by giving them a sixty percent voting need to change it, and so as a result we've made it much easier to retain it in the legislature. And now we're making it more difficult for the people by popular demand to remove this provision. I think it's unwise and I think it's not in keeping with the general philosophy of this body when we passed it in the Committee of the Whole, when we passed it in Style and

STATE PUBLISHING CO. HELENA, MONT.

Drafting, and when we passed it on final consideration. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Toole.

DELEGATE TOOLE: Mr. Chairman. I agree with Delegate Foster about this wholeheartedly. I'm very much interested in keeping those last twelve words in there, but I don't want to create an impossible constitutional situation for some future supreme court. I wonder if Mr. McDonough would yield to a question?

CHAIRMAN GRAYBILL: Mr. McDonough?

DELEGATE McDONOUGH: Yes, sir.

DELEGATE TOOLE: Do you foresee an impossible constitutional conflict if we leave the twelve words in there?

DELEGATE McDONOUGH: I foresee a number of lawsuits, possibly on whether or not we need five or ten percent on an initiative petition to change this; possibly whether or not, if it is changed by initiative, how long does it last for the budgetary period or does it last forever; possibly are we only removing the restriction that they can't be used for other purposes or can we also by initiative extend it to say -- earmark it for some other purpose other than the general fund. I can see a number of questions being raised by this thing in here as it is, and especially in conflict with the General Government's Article.

CHAIRMAN GRAYBILL: Mr. Toole.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE TOOLE: Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Jacobsen was up next.

DELEGATE JACOBSEN: Mr. President. May I ask a question of Mr. Rygg?

CHAIRMAN GRAYBILL: Mr. Rygg, will you yield?

DELEGATE RYGG: Yes.

DELEGATE JACOBSEN: Sterling, didn't you say that Article Four -- or section four of Article Twelve does the same thing as these twelve words do?

DELEGATE RYGG: Is that on section four, General Government?

DELEGATE JACOBSEN: Yes, General Government. Doesn't this allow the people to do the same thing on all matters of initiative?

DELEGATE RYGG: Well, not exactly because, as Mr. McDonough mentioned, if we take this out I think it would be ten percent or otherwise it could be five. So, as I stated earlier, they can still do it but it would be more difficult; that is true. So it isn't just the same as section four, it requires more signers.

DELEGATE JACOBSEN: More signers in the general --

DELEGATE RYGG: Yes, that's my understanding.

DELEGATE JACOBSEN: Thank you.

CHAIRMAN GRAYBILL: Mr. Scanlin was next.

DELEGATE SCANLIN: Mr. Chairman. This was the area

STATE PUBLISHING CO. HELENA, MONT.

of my confusion. As I understand it our reason for trying to remove these twelve words was to get the initiative out of the appropriation business. Am I wrong in that? I mean, the people of the state of Montana have no right to appropriate money by themselves except through their duly elected members of the legislature. I thought that was the area of discussion.

CHAIRMAN GRAYBILL: Mr. Scanlin, your question is interesting and I think some of the lawyers on the floor intend to answer it. Mr. Joyce was up first.

DELEGATE JOYCE: It seems to me that Delegate Scanlin is correct. What we're trying to do, as I understand it, by the amendment offered by the Revenue and Finance Committee is just to delete what inadvertently was inserted, which would give the people by initiative the power to appropriate money which we all concede just can't be so. But I respectfully submit that Delegate Foster is in error in thinking that by deleting these words that it therefore requires for all time that the first sentence remain in the Constitution. There are several ways that the people can take this out, by simply having the legislature submit a constitutional referendum to delete it; or the people by initiative can propose a constitutional convention -- a constitutional amendment that will delete the words. So it seems to me that it's perfectly proper to delete these words to make it perfectly clear that the people cannot appropriate money by initiative, but at the same time we still leave

STATE PUBLISHING CO. HELENA, MONT.

all the options open for amending the Constitution to delete the first sentence should the time ever arise when it's no longer thought desirable public policy to require that the highway funds be earmarked.

CHAIRMAN GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman. I certainly agree with the principles that have been established by Delegate Foster and I think most of us agree with him. What he is overlooking is the fact that we have an absolute unwieldy budget situation if we leave those twelve words in. It would be like a corporation having two boards of directors deciding what should be within the budget, what is required by way of appropriation of the corporate funds. And if we leave this situation in we are going to interfere with the powers of the legislature to work on a budget and to appropriate money in a sensible, solid fiscal manner. For that reason, I submit that Chairman Rygg is absolutely correct that these particular words must be removed from that section. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Berg.

DELEGATE BERG: Mr. Chairman. As I view this matter, there is a irreconcilable conflict between section four of General Government, subsection one, which reads: The people may enact laws by initiative on all matters except appropriations of money. Whereas, the provision in section six of the article

STATE PUBLISHING CO. HELENA, MONT.

we are now considering is, such revenue may be appropriated for other purposes, one, by a three-fifths vote of the members of each house or, two, by initiated measure approved by a majority of the qualified electors. So that in General Government was are saying, by initiative money may not be appropriated; but if we leave these words in subsection two of section six we are saying exactly the opposite, that it may be so appropriated. And in my mind, the inconsistency is one that the court, I am sure, could not resolve. Therefore, for consistency's sake it should be removed from subdivision two of section six.

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman and fellow Delegates. I hate to take issue with three extremely competent lawyers, but I want to point out several inconsistencies here that they have presented. First of all, Mr. Joyce's indication that in fact if we take these words out would leave it exactly the same are certainly not accurate. It would require a ten percent petition of the people instead of a five percent petition, and I submit that ten percent is about ten times as hard to get as five percent. You get into a situation there where you have to get people to sign something on a petition, and ten percent is extremely more difficult to get than five percent. Now, in relation to the question that Delegate Dahood and Delgate Berg have raised, there is some lack of clarity in subsection two on

STATE PUBLISHING CO. HELENA, MONT.

page two of the Revenue and Finance Article; but I submit that it is certainly not clear in the area of a conflict because in reality the court could very easily rule that by initiative the people could allow the legislature to appropriate, which was the intent in the first place. I submit that is certainly what was the intent of this body when we passed it and it was the intent of the committee when they presented it. Now the court might rule that in fact the people could appropriate, but I submit in view of the section as we have presently passed it under General Government that it's very unlikely that the court would rule in that direction. This, in fact, was the position taken, in my recollection anyway, by Delegate Dahood on Saturday. I submit that even though I had hoped that we could clarify this language in this discussion, that in fact the position, if we leave it as it is, is certainly not untenable. It seems to me that the court in their wisdom will rule, in fact, under this wording that the people by initiative may allow the legislature to appropriate from this particular fund; and I do not think it is an untenable situation for the courts to rule upon. I think it should be left as it is. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman and fellow Delegates. I hate to see Mr. Foster boxed in by all these fine legal minds. In the first place, in Mr. Berg's argument that

STATE PUBLISHING CO. HELENA, MONT.

it's irreconcilable, I don't agree with Mr. Berg at all; I seldom do, I suppose. The general ruling is that when there is a general prohibition and another provision which is specific, the specific will take precedence over the general exception. However, I think the thing -- if the committee here really desires to keep the initiative and the referendum in, the solution is not to amend the highway antidiversion act, but go to section four of the initiative act where there is prohibition against the people having initiative on all matters except appropriation of money and put in after that, except as provided elsewhere in this Constitution. Then you have no conflict at all. Now as to what Mr. McDonough has said about the fact that the initiative might be difficult for the court to interpret as to whether or not it applies to one session, for this budget only or things like that, well, of course, if the initiative is carefully drawn why there is no necessity for the court to make such an interpretation. If it carelessly drawn, I agree with Mr. McDonough entirely, but this is the danger of initiative, very often they are carelessly drawn. But to say we have to knock out this whole thing because section four has some conflict, I do not agree with because all we've got to do is come back to section four -- in the first place I think an interpretation would be a specific takes over the general. That is, the highway referendum being specific would take over the general section four of the government. But if the committee

STATE PUBLISHING CO. HELENA, MONT.

truly desires to keep it in there, all we've got to do is suspend the rules and go back to the General Government initiative and make the exception, as provided elsewhere in the Constitution.

CHAIRMAN GRAYBILL: Mr. Rollins.

DELEGATE ROLLINS: Mr. Chairman. I'll make my remarks brief by quoting twice from Shakespeare. Once I'm willing to go along with this amendment to make assurance triply sure, it's already doubly sure, in the Article on General Government and in section sixteen of the legislative Article, and I'll close with Shakespeare by saying that I want to see this resolved and not spend all day writing a sonnet to a mistress' eyebrow.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman and fellow Delegates. I concur with removing these twelve words, not only because of the possible interpretation by the courts later but the principles involved. Going home, I find that the people were appalled at this measure and the possibility of involving and taking money from the highway by initiative of the people.

CHAIRMAN GRAYBILL: Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman and fellow Delegates. Will Delegate Rygg yield to a question?

DELEGATE RYGG: I'll yield.

DELEGATE HARLOW: Did not, that is, during your

STATE PUBLISHING CO. HELENA, MONT.

comments about these twelve words, make the comment that this initiative was for the purpose of spurring the legislature and not for the actual appropriation of the money?

DELEGATE RYGG: Certainly that was our intent, but apparently it could be misconstrued with words. That was our intent, yes, sir.

DELEGATE HARLOW: Thank you, Mr. Rygg. Well then, I'm in support of deleting these words, because as I interpret the work that we have done so far in regard to this line -- I realize that I am not the interpretive mind like the legal minds, but there is nothing that would prohibit the people from an ordinary initiative of law to initiate a request to the legislature encouraging them to make a decision to appropriate some of this money; so I do not feel that by taking out these six words, or nine words, that we are prohibiting the people from using the initiative process to encourage the legislature to do things that the legislature may be reticent in doing without a little encouragement. So I think this is a good thing to do, to eliminate all those things and it has not taken away the intent that the Revenue Committee had in the beginning. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Is there further discussion? Mr. Barnard.

DELEGATE BARNARD: Mr. President. I have an amendment here that might straighten this thing out. I haven't got

STATE PUBLISHING CO. HELENA, MONT.

it quite completely written out.

CHAIRMAN GRAYBILL: Well now, Mr. Barnard, we've got a motion to reconsider and a motion to suspend the rules, all of which are limited strictly to striking twelve words.

DELEGATE BARNARD: Limited strictly to striking those twelve words.

CHAIRMAN GRAYBILL: It's still going to be restricted to striking twelve words, your amendment?

DELEGATE BARNARD: No, it would be just to change them just slightly.

CHAIRMAN GRAYBILL: Yes, I understand, but that was the whole problem on the touchy nature of the motion to suspend. Now I don't see how you can make an amendment to strike twelve words that isn't going to change it, but if you can figure one out, okay. But I think that the Chair is duty-bound now, unless we go back and move to suspend for a broader purpose -- now, if you want to try that, that's all right. I'm not objecting to that, but I am saying that we've carefully limited the reason and purpose for which it's open and I don't see how you can amend it at this stage of the game.

DELEGATE BARNARD: Mr. President, all I had in mind was not to change the amendment more than just to clarify it; so it would clear up the situation we are faced with.

CHAIRMAN GRAYBILL: If you want to write it out and send it up, I'll look at it; but the Chair is going to rule

STATE PUBLISHING CO. HELENA, MONT.

that we're within this limited suspension purpose and until you enlarge the suspension purpose, I'm going to be terribly strict about that, but you can finish it if you want to. Is there other discussion? Mr. Habedank.

DELEGATE HABEDANK: Mr. President and fellow Delegates. For the benefit of those who were not here during the argument on general government, the initial attempt on the part of General Government to reconcile the conflict between these two articles was to do what Delegate Holland suggested. This was voted down by a very large majority because it was felt it would be improper to allow this type of thing to occur insofar as appropriation is concerned. The only way that I see the court could clarify the situation, if you were to leave this in, is to do what Delegate Harper contended and in opposition to what I suggested, was the question of whether this would be a ten percent vote or five percent vote; and if you clarify this thing by analogy, the court to eliminate conflict would have to hold that the only initiated measure that you could have would be a constitutional amendment. Once that is done, the people would not be appropriating money but they would probably remove the entire subsection two or else remove the earmarking funds. By constitutional amendment the people can eliminate the earmarking of funds or if they desire, they can eliminate subsection two and eliminate the ability of the legislature to change the appropriations. Therefore, I think

STATE PUBLISHING CO. HELENA, MONT.

I again urge you to follow the recommendation of the Revenue and Finance Committee to eliminate this conflict by striking the last twelve words.

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: May I close? I only want to say in closing that originally the committee felt they should not reopen this section and change it, but after we discussed it and found out there seemed to be no way of clarifying it, then the majority of the committee decided that this was the route to go. It isn't any attempt on the committee to change anything, except we honestly felt that there was no other way out of it to keep the ambiguity out of the Constitution. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: I take it we want a roll call vote on this matter? Very well, so many as shall be in favor of Mr. Rygg's proposed amendment to section six, sub two, to strike the last twelve words which are, or by initiated measure approved by a majority of the qualified electors, which has the effect of striking that initiative measure out of subsection two, vote Aye, and so many as are opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Very well, take the vote.

Aasheim	- Aye	Champoux	- Nay
Anderson, J.	- Aye	Choate	- Aye
Anderson, O.	- Aye	Conover	- Aye
Arbanas	- Aye	Cross	- Nay
Arness	- Nay	Dahood	- Aye
Aronow	- Nay	Davis	- Abs
Artz	- Nay	Delaney	- Abs
Ask	- Aye	Driscoll	- Aye
Babcock	- Aye	Drum	- Aye
Barnard	- Aye	Eck	- Aye
Bates	- Aye	Erdmann	- Aye
Belcher	- Aye	Eskildsen	- Aye
Berg	- Aye	Etchart	- Aye
Berthelson	- Aye	Felt	- Abs
Blaylock	- Aye	Foster	- Nay
Blend	- Aye	Furlong	- Nay
Bowman	- Aye	Garlington	- Aye
Brazier	- Abs	Graybill	- Aye
Brown	- Aye	Gysler	- Aye
Bugbee	- Aye	Habedank	- Aye
Burkhardt	- Aye	Hanson, R. S.	- Aye
Cain	- Aye	Hanson, R.	- Aye
Campbell	- Abs	Harbaugh	- Aye
Cate	- Aye	Harlow	- Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Harper	- Aye	Payne	- Aye
2	Harrington	- Aye	Pemberton	- Aye
3	Heliker	- Aye	Rebal	- Aye
4	Holland	- Nay	Reichert	- Aye
5	Jacobsen	- Aye	Robinson	- Aye
6	James	- Aye	Roeder	- Aye
7	Johnson	- Aye	Rollins	- Aye
8	Joyce	- Aye	Romney	- Aye
9	Kamhoot	- Aye	Rygg	- Aye
10	Kelleher	- Nay	Scanlin	- Aye
11	Leuthold	- Aye	Schiltz	- Aye
12	Loendorf	- Aye	Siderius	- Aye
13	Lorello	- Aye	Simon	- Aye
14	Mahoney	- Aye	Skari	- Aye
15	Mansfield	- Aye	Sparks	- Aye
16	Martin	- Aye	Speer	- Nay
17	McCarvel	- Aye	Studer	- Abs
18	McDonough	- Aye	Sullivan	- Aye
19	McKeon	- Aye	Swanberg	- Aye
20	McNeil	- Aye	Toole	- Nay
21	Melvin	- Aye	Van Buskirk	- Aye
22	Monroe	- Nay	Vermillion	- Nay
23	Murray	- Abs	Wagner	- Aye
24	Noble	- Aye	Ward	- Aye
25	Nutting	- Abs	Warden	- Aye

STATE
PUBLISHING CO.
HELENA, MONT.

Wilson - Aye Woodmansey - Aye

CLERK HANSON: Mr. Chairman, seventy-nine Delegates voting Aye, thirteen voting No.

CHAIRMAN GRAYBILL: Seventy-nine having voted Aye and thirteen having voted No, section six, sub two, is amended. Mr. Rygg, would you please move an amendment that when this committee does arise and report after having had under consideration section six, sub two, of the Revenue and Finance Committee proposal, as amended, that the same be adopted?

DELEGATE RYGG: Yes, sir, I so move that.

CHAIRMAN GRAYBILL: Or that the same be recommended for adoption?

DELEGATE RYGG: As amended, right.

CHAIRMAN GRAYBILL: All in favor of Mr. Rygg's motion that we adopt this as amended, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: The Ayes have it and it is so ordered.

Mr. Eskildsen.

DELEGATE ESKILDSEN: I move that the Committee of the Whole rise and report -- and finally report.

CHAIRMAN GRAYBILL: The motion is that the committee arise and report finally on Judiciary and Revenue and Finance

STATE PUBLISHING CO. HELENA, MONT.

and refer them back to Style and Drafting. All in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It is so ordered.

PRESIDENT GRAYBILL: The Chair would like to announce that there is one other matter that some may wish to take up, and after we finally rise and report on this matter the Chair will entertain a motion for a fifteen minute recess. Would Mr. Aasheim, Mr. Joyce, Mr. Etchart, Mr. McDonough or Mr. Rygg and Mr. Blaylock please meet in the Rules Committee room on recess. Will the Clerk please read the committee report.

CLERK HANSON: (Reading) March 20, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business on General Orders recommend as follows: That the Committee rise and finally report on Judiciary and Revenue and Finance and refer them back to Style and Drafting. Signed, Graybill, Chairman. (End reading) Mr. President.

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move we adopt the Committee of the Whole report and that Judiciary and Revenue and Finance proposals be placed in Style and Drafting.

PRESIDENT GRAYBILL: For inclusion in the final

STATE PUBLISHING CO. HELENA, MONT.

document. All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: I take it no one objected to not reading the report in full? Very well, Mr. Eskildsen, let's take a fifteen minute recess.

DELEGATE ESKILDSEN: I move we stand in recess until five minutes to eleven this day.

PRESIDENT GRAYBILL: The motion is to recess until five minutes to eleven; all in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: It is so ordered.

(Brief recess)

PRESIDENT GRAYBILL: The Chair hesitates to do the next important business until we get some more people here, so I think we better send a page out in the hall and tell them to come to the meeting.

The convention will come to order. Just before we recessed we had finished the problem on Revenue and Finance and the problem on Judiciary; another problem has now arisen and the Chair intends to ask for a motion from Mr. Eskildsen to move the Executive proposal to Order of Business Number Ten so

STATE PUBLISHING CO. HELENA, MONT.

that we can consider a matter concerning the legislative post auditor that has come up. Mr. Joyce will make the motion when we get there, and I am sure that you will all understand it as soon as he explains it. But to get this matter under way, the Chair would like to ask Mr. Eskildsen if he has a motion to move Executive to Order of Business Number Ten?

DELEGATE ESKILDSEN: Mr. President. Without objection, may we be on Order of Business Number Seven.

PRESIDENT GRAYBILL: Without objection, we will be on Order of Business Number Seven.

DELEGATE ESKILDSEN: Mr. President. I move that we take the Executive proposal from Style and Drafting and refer it to Order of Business Number Ten.

PRESIDENT GRAYBILL: The motion is to refer the Executive proposal, which is in Style and Drafting, to Order of Business Number Ten, General Orders for Committee of the Whole discussion. All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: It is so ordered. Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. I move to suspend the rules for the limited purpose only of modifying --

PRESIDENT GRAYBILL: Mr. Joyce, wait a minute. Mr. Eskildsen.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ESKILDSEN: Without objection, may we be on Order of business Number Ten.

PRESIDENT GRAYBILL: Without objection, we will be on Order of Business Number Ten. Mr. Eskildsen.

DELEGATE ESKILDSEN: I move the convention resolve itself into the Committee of the Whole for the purpose of handling business under General Orders.

PRESIDENT GRAYBILL: The motion is to resolve this convention into a Committee of the Whole. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: It is so ordered.

(Committee of the Whole)

CHAIRMAN GRAYBILL: Now, Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. I move that this committee suspend the rules for the limited purpose only of reconsidering section three, subsection five, of the final report on the Executive Committee's report number four.

CHAIRMAN GRAYBILL: Mr. Joyce, it's section four, subsection five.

DELEGATE JOYCE: Section four, subsection five, pardon me.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Do you want to explain your limited purpose?

DELEGATE JOYCE: The limited purpose would be on line twenty-six of page two. As adopted, the words now read: The legislature may appoint a legislative post auditor who shall perform such post auditing duties as may be provided by law. If the motion to suspend the rules and subsequently the motion to reconsider is passed, I would then move that we substitute in lieu of those words, the following words, that you can write down if you wish: The legislature shall establish a legislative post audit committee which shall perform such post auditing duties as may be prescribed by law. This question arises at the request of the current legislative post audit committee. We met during the recess with the current members of that committee; they pointed out to us that as the legislative post auditor is now established, it is established by the rules of the legislature whereby the speaker of the house and the president of the senate appoint this legislative post audit committee which is bipartisan in nature, has the same number of each political party, and that this particular committee then does in fact appoint the legislative post auditor and he reports to that committee. As we have written it into the Constitution we are providing that the legislature shall appoint this legislative post auditor, and their concern is that if appointment of a legislative post auditor is thrown

STATE PUBLISHING CO. HELENA, MONT.

into the legislature that it will get involved in the politics of the houses, depending on which particular party may happen to control the same. That as the system is currently established it is guaranteed to be bipartisan in nature and they prefer the language which I have proposed, rather than the language that's in the Constitution as adopted at this time.

CHAIRMAN GRAYBILL: Okay, I think you have fully explained it. The Chair would like to restate this language so everybody has it if they want it: The legislature shall establish a legislative post audit committee which shall perform such post auditing duties as may be provided by law. Mr. Joyce, I changed your word to, provided, since that's what Style and Drafting has done all along and I am trying to avoid going back to Style and Drafting again. Now, the purpose then of the Joyce motion to suspend the rules is to suspend the rules to consider section four, sub five, of the Executive Article for the purpose of changing the language from letting the legislature appoint a post auditor to letting the legislature establish a post audit committee, which would then have the duties that they now have. Now, is there other discussion on the motion to suspend the rules? Mr. Joyce.

DELEGATE JOYCE: Before you put that, the word is, supervise, rather than, perform, I think because this committee does not do the post auditing as such. They supervise the post auditor that they appoint.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Which shall supervise such post auditing duties as may be provided by law; I think that is correct.

Mr. Aasheim.

DELEGATE AASHEIM: Mr. President. Would you want in this motion the proposition that if adopted that this sentence be placed in the Legislative Article? I mean, the Style and Drafting Committee be authorized to insert this in the Legislative Article in the proper position; would you want that in the motion?

CHAIRMAN GRAYBILL: I've spoken to Mr. Schiltz, is he here? Mr. Schiltz, is there any reason you couldn't move it to Legislative, Style and Drafting?

DELEGATE SCHILTZ: There is no reason, Mr. President, except that the Style and Drafting Committee agreed yesterday unanimously that it wasn't germain at that time to the rest of the content of the Legislative Article. So we had agreed among ourselves to put it in a group of four or five general provisions, where I submit to you it might stand out better than if it were in the Legislative Article. We'll do whatever the committee wants, and we'd rather find it out now than have it moved the day after tomorrow.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: Would Mr. Schiltz yield to another question?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: Yes.

DELEGATE AASHEIM: I would move, Mr. Schiltz, to have it in section ten, sub four, which reads now: The legislature may establish a legislative council and other interim committees. Would it belong here, I am open to your suggestions; what would you suggest at this time?

DELEGATE SCHILTZ: Well, I don't know the one you are looking at now because I have something else before me, but ten, sub four, of the -- I would have it look at it. I think as amended, it's now more germain to the Legislative Article. I think if somebody wanted to make that motion, it would be appropriate.

DELEGATE AASHEIM: Well, Mr. President --

CHAIRMAN GRAYBILL: Mr. Aasheim, we haven't done this yet; and before we leave it I would entertain a motion from you to put it in the Legislative Article.

DELEGATE AASHEIM: Would it not be in order now?

CHAIRMAN GRAYBILL: I see, if we haven't mentioned it, you mean. You want to ask Mr. Joyce to say, and place the language in the Legislative Article?

DELEGATE AASHEIM: Instruct the Style and Drafting Committee to insert it in section ten, sub four, of the article.

CHAIRMAN GRAYBILL: Mr. Joyce.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE JOYCE: Mr. Chairman. May I add to my motion to suspend the rules for that limited purpose, the additional words, I would further move later to have the language, if adopted, incorporated into the Legislative Article by the Style and Drafting Committee.

CHAIRMAN GRAYBILL: Very well, we're ready to debate the motion to suspend the rules, and Mr. Scanlin has been up.

DELEGATE SCANLIN: Mr. Chairman. Is a substitute motion in order to suspend the rules in order to delete this sentence?

CHAIRMAN GRAYBILL: Yes, I suppose it's in order.

DELEGATE SCANLIN: My reason being that if it's already being carried out in the statutes, what are we getting so confused about?

CHAIRMAN GRAYBILL: Are you making such a motion?

DELEGATE SCANLIN: I so move.

CHAIRMAN GRAYBILL: You make a motion to suspend the rules to reconsider section four, sub five, of the Executive Article to delete the sentence concerning the post legislative post auditor? All right, Mr. Scanlin has made a substitute motion to move to suspend the rules for the purpose of reconsidering section four, sub five, of the Executive Article to delete the references therein to the legislative post auditor.

Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. I rise in opposition

STATE PUBLISHING CO. HELENA, MONT.

to the motion of Delegate Scanlin to reconsider for that purpose, and I do so because I feel honor bound to call to the attention of the body that this particular section came in as the result of a floor debate that was conducted between myself, as the chairman of the Executive Committee, and Mr. Felt, a member of my committee, but who had offered this amendment. If the Delegates will recall, this entire debate came about over amending the Executive Article with reference to the function of the state auditor. After some debate it was finally narrowed down to the language which currently appears in the Executive Article; and the rational as to why we did that was to make it clear, constitutionally, that the legislature could itself establish a post auditing system; and that it would not be in conflict with the state auditor as provided in the Executive department. That was the reason why this convention took the action it did and to now delete this matter when Delegate Felt isn't here to defend his position, which of course is not necessarily relevent; but at any rate, I'm just trying to recall to the convention the action that we did take and the reason that we did do such a thing at the time that this particular subject matter was covered, when the Executive Article was under debate in the Committee of the Whole.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President. I likewise resist the motion to delete this and support the motion of Mr.

STATE PUBLISHING CO. HELENA, MONT.

Joyce to suspend the rules. I was asked by Chairman Schiltz of Style and Drafting Committee to meet with the legislative council members who have been supervising the post auditing for the state, and one of the reasons, I think you will remember, that we wanted to put this office into our Constitution was because it had worked so extremely well for the state of Montana. These men who having been serving in our state legislature are concerned about the present language that we have adopted, because they feel that the language we have that the legislature could appoint this legislative post auditor and thus throw the whole thing back into politics, which they have so scrupulously tried to keep out of politics and which I think they have. This is why we like this post auditor so well, because it has been kept out of politics and they're very careful when they put out these reports, so that they don't come out at election time and try to hurt somebody running for office or anything like this; and it's done because this committee is balanced between Democrats and Republicans and they want to keep it that way. They want to keep the authority within the legislative post audit committee. So I definitely support Mr. Joyce and I hope the committee will go along because I think these men have worked extremely well for the state of Montana.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman and fellow Delegates.

STATE PUBLISHING CO. HELENA, MONT.

First, Mr. Chairman, I would like a point of information. Isn't it possible that part of this section could be moved to the Legislative Article by Style and Drafting without reopening this article?

CHAIRMAN GRAYBILL: It could be moved to Style and Drafting, and in fact it has been moved to General Government by them, but that doesn't reach the substantive problem that the legislative council people want reached.

DELEGATE BATES: Well, Mr. Chairman, could I speak on this?

CHAIRMAN GRAYBILL: You may speak on the motion to suspend the rules.

DELEGATE BATES: I oppose suspending for the simple reason that if Style and Drafting can remove this last sentence from this section that says: The legislature may appoint a legislative post auditor who shall perform such post auditing duties as may be provided by law. It's something they can do now. In looking over the minutes of our Legislative Committee meeting, I find that it was the sense of the committee that the legislative council be left out of the Constitutional Article -- wait a minute, here it is -- it was the sense of the committee that the legislative audit was a good idea and that it should be left to statutory law. It was our decision that this legislative post audit was appointed by the legislature for their protection and for their use.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mrs. Bates, I think you are now substantively arguing whether or not we should change this. I might point out for your information that Mr. Scanlin is trying to do precisely what you want to do, take it out of the Constitution.

DELEGATE BATES: Not to take it out of the Constitution, but to move it into the Legislative Article.

CHAIRMAN GRAYBILL: All right. Now, apparently you don't understand the situation. The situation is that Mr. Joyce moved a motion to suspend the rules, section four, sub five, to propose changing the substantive language so that we did not give the legislature the power to appoint a post auditor, but rather we gave it the power to establish a post audit committee which would supervise the post auditor, and the reason is to keep it out of politics. Mr. Scanlin, on the other hand, has made a substitute motion to suspend the rules for the purpose of striking subsection five of section four -- from subsection five, section four, of the Executive Article all references to the legislative post auditor. Now that's what Mr. Scanlin's motion is at the present time; that's the motion we're debating, whether to allow him to suspend the rules for that purpose.

Mrs. Bates.

DELEGATE BATES: I realize this, but I oppose the motion from Joyce for this reason, I feel that Style and Drafting

STATE PUBLISHING CO. HELENA, MONT.

can take care of this matter. Thank you.

CHAIRMAN GRAYBILL: You are now arguing the issue and I'm trying to avoid that. Is there any other discussion of Mr. Scanlin's motion to suspend the rules to delete the legislative post auditor entirely? Mrs. Robinson.

DELEGATE ROBINSON: Mr. Chairman. I rise in support of Mr. Scanlin's motion, not so much because I'm in opposition to Mr. Joyce's, because in the event this does fail I would support that because I feel we have made a mistake in dealing with this audit. As Mrs. Bates indicated, in our Legislative Committee we felt that this should be left out of the Constitution. This is one of the institutions of the state of Montana that is working; it is working very well. We could see no reason for writing it into the Constitution. We talked to the people in the legislative post audit commission downstairs and they agreed that it shouldn't be written into the Constitution; and that's why the Legislative Committee took that position. I think that it's very clearly dealt with in the statutes.

CHAIRMAN GRAYBILL: All right, I don't mind you talking about the motion, but I don't want you to argue the substantive issue.

Mr. Roeder.

DELEGATE ROEDER: At the risk of suffering the slings and arrows of my seat mate, I rise in opposition to Mr. Scanlin's motion. I think that there is some confusion here in this

STATE PUBLISHING CO. HELENA, MONT.

respect. I think one of the reasons we mentioned legislative post audit and other interim committees was to make it clear that we were trying to surmount the affect of a series of supreme court decisions in the 1950's that questioned the constitutionality of interim committees; and if we get to the debate stage I think Mr. Berg ought to clarify that.

CHAIRMAN GRAYBILL: Is there other discussion of Mr. Scanlin's motion to suspend the rules? Mr. Aasheim.

DELEGATE AASHEIM: I resist the motion by Mr. Scanlin and support the one by Mr. Joyce.

CHAIRMAN GRAYBILL: Mr. Martin.

DELEGATE MARTIN: I hesitate to get up in regard to a suspension of the rules, but in this case I think if we were to delete this section I think it would be one of the most serious things that we could do. We would remove the watchdog that we need so badly.

CHAIRMAN GRAYBILL: Mr. Scanlin, do you want to close on your idea of suspending the rules?

DELEGATE SCANLIN: Thank you, Mr. Chairman. I wish to close simply by saying, if the law is working well now and the last few words of line twenty-five says, as prescribed by law, I see no reason to tamper with it and consequently I support my motion.

CHAIRMAN GRAYBILL: Is there a roll call vote called for? Very well, so many as shall be in favor of Mr. Scanlin's

STATE PUBLISHING CO. HELENA, MONT.

motion to suspend the rules for the purpose of taking out of section four, subsection five, any reference to the legislative post auditor. So many as shall be in favor of that, vote Aye; so many as shall be opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Now, I'm sorry, Mr. Schiltz and Mr. Aronow, you've got to sit in your own seats. The voting machine is keyed to your seats and you've now voted for each other and that's illegal; I don't want you both going to jail. If there had been a chance to send one I might have considered it, but -- (laughter) I'm not going to tell you which one. (laughter) Now, has every Delegate voted the way he wants to vote and does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Close the ballot. The problem is you get the machine all fouled up, Cedor.

Aasheim	- Nay	Babcock	- Nay
Anderson, J.	- Nay	Barnard	- Nay
Anderson, O.	- Nay	Bates	- Nay
Arbanas	- Nay	Belcher	- Nay
Arness	- Abs	Berg	- Nay
Aronow	- Nay	Berthelson	- Nay
Artz	- Nay	Blaylock	- Nay
Ask	- Nay	Blend	- Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Bowman	- Nay	Graybill	- Nay
2	Brazier	- Nay	Gysler	- Nay
3	Brown	- Nay	Habedank	- Nay
4	Bugbee	- Nay	Hanson, R. S.	- Nay
5	Burkhardt	- Nay	Hanson, R.	- Nay
6	Cain	- Nay	Harbaugh	- Aye
7	Campbell	- Nay	Harlow	- Aye
8	Cate	- Nay	Harper	- Aye
9	Champoux	- Aye	Harrington	- Aye
10	Choate	- Nay	Heliker	- Nay
11	Conover	- Aye	Holland	- Nay
12	Cross	- Aye	Jacobsen	- Nay
13	Dahood	- Nay	James	- Nay
14	Davis	- Abs	Johnson	- Nay
15	Delaney	- Abs	Joyce	- Nay
16	Driscoll	- Nay	Kamhoot	- Nay
17	Drum	- Nay	Kelleher	- Nay
18	Eck	- Nay	Leuthold	- Nay
19	Erdmann	- Nay	Loendorf	- Aye
20	Eskildsen	- Nay	Lorello	- Aye
21	Etchart	- Nay	Mahoney	- Aye
22	Felt	- Abs	Mansfield	- Nay
23	Foster	- Abs	Martin	- Nay
24	Furlong	- Nay	McCarvel	- Nay
25	Garlington	- Nay	McDonough	- Nay

STATE
PUBLISHING CO.
HELENA, MONT.
3

McKeon	- Nay	Schiltz	- Nay
McNeil	- Aye	Siderius	- Nay
Melvin	- Nay	Simon	- Nay
Monroe	- Aye	Skari	- Nay
Murray	- Abs	Sparks	- Nay
Noble	- Nay	Speer	- Nay
Nutting	- Abs	Studer	- Abs
Payne	- Nay	Sullivan	- Nay
Pemberton	- Nay	Swanberg	- Nay
Rebal	- Nay	Toole	- Nay
Reichert	- Nay	Van Buskirk	- Nay
Robinson	- Aye	Vermillion	- Nay
Roeder	- Nay	Wagner	- Nay
Rollins	- Aye	Ward	- Nay
Romney	- Nay	Warden	- Nay
Rygg	- Nay	Wilson	- Nay
Scanlin	- Aye	Woodmansey	- Nay

CLERK HANSON: Mr. Chairman. Fifteen Delegates voting Aye, seventy-seven voting No.

CHAIRMAN GRAYBILL: Seventy-seven voting No and fifteen, Aye, Mr. Scanlin's motion has failed. Now we're back on Mr. Joyce's motion, which is to suspend the rules so that we can consider the Executive Article, section four, sub five, for the purpose of changing the legislative post auditor language and putting in language to make it establish a committee which will

STATE PUBLISHING CO. HELENA, MONT.

run the post audit. Is there other discussion on that motion to suspend the rules? Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, is the whole section open? If it is, it includes the superintendent of public instruction, the treasurer, the auditor and the whole bit; is that all open?

CHAIRMAN GRAYBILL: Now Mrs. Babcock, I've said that subsection five is open for the purpose of changing the legislative post auditor's part only. If you're looking at your final, you're right; those other things are in there, but in your Style and Drafting, Style and Drafting put a subsection six into five and the only part that's open is the last sentence. Now, if you want to enlarge it you can make another motion, but --

DELEGATE BABCOCK: Mr. Chairman, by all means I don't want to enlarge it, and I rise in opposition to it. I think once we've voted on these for final vote that they should stay voted on for final vote.

CHAIRMAN GRAYBILL: All right. The only thing that's open, Mrs. Babcock, is the last sentence, which is the sentence concerning the post auditor. Is there other discussion? Mr. Furlong.

DELEGATE FURLONG: Mr. Chairman. It seems to me that what we're really trying to do here is constitutionalize a procedure and I would stand opposed to reopening it unless I had

STATE PUBLISHING CO. HELENA, MONT.

some more clear explanation of the purpose.

CHAIRMAN GRAYBILL: You may certainly find out; I don't want you to be mislead here. You may inquire, or Mr. Joyce or Mr. Blaylock may re-explain to you the purpose. Mr. Joyce, Mr. Furlong would like the purpose re-explained.

DELEGATE JOYCE: Mr. Chairman. The purpose of my motion to suspend the rules would be for the limited purpose only of deleting on page two, line twenty-five, beginning with the word, the, of Executive report number four, by deleting the words, quote: The legislature may appoint a legislative post auditor who shall perform such post auditing duties as may be provided by law. Then substitute in lieu thereof the following language: The legislature shall establish a legislative post audit committee which shall supervise such post auditing duties as may be provided by law. And further to instruct the Style and Drafting Committee to insert the same, the new language, if adopted, in an appropriate section of the Legislative Article.

CHAIRMAN GRAYBILL: Is that sufficient, Mr. Furlong? Or do you want to know why they want to do that?

DELEGATE FURLONG: Mr. Chairman. It's sufficient; I still maintain that what we're doing in the Constitution is establishing a procedure. I don't know why it's really necessary.

CHAIRMAN GRAYBILL: I certainly want everybody to understand why, and I certainly understand why, and you may

STATE PUBLISHING CO. HELENA, MONT.

vote either way; but the reason is that we have given the legislature the power to appoint the post auditor. The present post auditing people -- legislative post audit committee people feel that we may have thus placed the post auditor in a political position where a majority in the legislature would appoint him politically. The present practice is to have a post audit committee which is not appointed by the legislature but is appointed by the speaker of one house and somebody else. But in other words, it's a procedure by which a committee is appointed and the committee choses the post auditor. They feel that this insulates the post auditor from the direct control of the entire legislative body and thus takes it out of politics. Now, I don't know whether it will or not but at least that's what they think it would have a better chance of doing than the way it is here. The purpose of the amendment is to address ourselves to that problem, if we do it. Now, whether it's a good idea or not, I'm not prepared to say.

Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman. Would Mr. Joyce yield to a question?

CHAIRMAN GRAYBILL: Mr. Joyce?

DELEGATE JOYCE: I yield.

DELEGATE REICHERT: Delegate Joyce, when our Legislative Committee prepared its final report, as Delegate Aasheim stated, we have mentioned, the legislature may establish

STATE PUBLISHING CO. HELENA, MONT.

a legislative council and other interim committees. I had worked on this legislative post audit; I was the one who had gone down to see our auditor, and in reporting back I had discussed the issue with Mr. Felt and he thought this other interim committees would permit exactly what the statement you have just suggested would do. I want to ask you how this proposal now would differ from the statement, the legislature may establish other interim committees?

DELEGATE JOYCE: Well, in answer to that I suppose it would differ from it in that it would be more specific than the section that you refer to, and to amplify, as I say, the reason that this was inserted into the Executive Article after extended debate, if you recall, in which Mr. Felt and I were on opposite sides of the debate. And finally it got stripped down to this language in my amendment from further language that he had proposed, and which was ultimately adopted by the Committee of the Whole and the convention itself upon final reading of the Executive Article. It could do the same thing, maybe it would and maybe it wouldn't; this is more specific.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman. If I may address myself to Mrs. Reichert's question, I think the idea was that the legislative post audit is an excellent institution and that we should make sure somehow that it is retained; and in order to do that, retain it by constitutional provision rather than

STATE PUBLISHING CO. HELENA, MONT.

let the legislature willy-nilly abandon it at some time.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: Just one comment in addition to what Mr. Schiltz just said. There has been a question -- the supreme court has raised this, whether or not the legislature has the authority to set up these interim committees; and that is why Mr. Felt made this suggestion and that is why we have included in this Legislative Article, and as Mr. Schiltz said, this makes it very plain and very specific, that they can do this.

CHAIRMAN GRAYBILL: Mr. Skari.

DELEGATE SKARI: Mr. President, would Delegate Joyce yield to a question, please?

CHAIRMAN GRAYBILL: Mr. Joyce?

DELEGATE JOYCE: Mr. Chairman, I yield.

DELEGATE SKARI: Mr. Joyce, I think I understand the idea of this language is to keep the legislative post auditor out of politics by selecting this person by a smaller committee than the entire legislative body. Still, is there any guarantee here that the legislative post audit committee will be balanced politically? I understand it has in the past.

DELEGATE JOYCE: In answer to the question, I suppose that I would have to say that there is no guarantee of such other than that the current members of the committee feel that as the law is currently established that it is out of

STATE PUBLISHING CO. HELENA, MONT.

politics, and this would be at least a strong directive to continue the system that they've established to keep it out of politics.

DELEGATE SKARI: Thank you.

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman. I think this is a good amendment to put it in here and I'm sorry to the convention I didn't notice this before, but if you went out here and let the legislature -- and they had just the appointing, or selecting a legislative auditor. At least we're getting it back under a committee; we're getting it back under the legislature where it should belong. I think this is there and we don't want to come out here and create another branch of government which might happen if we had this individual this way. I sure hope this amendment will prevail.

CHAIRMAN GRAYILL: Now, the amendment is on -- or the motion is on a motion to suspend the rules. I think we now have gotten everyone sufficiently educated so they at least know what they're voting about. I'm not going to cut off debate if you want to debate the motion, but I do think you should stick to the subject of suspending the rules if you want to discuss it now. Is there any further discussion? Mrs. Bates.

DELEGATE BATES: Mr. Chairman. I would like to have Delegate Mahoney answer a question.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Mahoney, will you yield?

DELEGATE MAHONEY: I'll try.

DELEGATE BATES: Under the Legislative Article, interim committees are one of the things that's permitted. Why couldn't this be done --

CHAIRMAN GRAYBILL: Mrs. Bates. All right, ask your question but before you answer, Mr. Mahoney, the Chair is going to rule.

DELEGATE BATES: Why couldn't this be done under the present -- the way it is now?

CHAIRMAN GRAYBILL: All right. That's a substantive question that you can debate if we ever suspend the rules and debate this matter, Mrs. Bates; so I'll rule it out of order. Is there any other question about the motion to suspend the rules? (No response) Do you want a roll call vote? The Chair wants a roll call vote, does he have some seconds? (Affirmative response) Good. All in favor of suspending the rules on Mr. Joyce's motion so that we can go into Executive Article, section four, sub five, and change the nature of the legislative post auditor to a post audit committee, please vote Aye; and so many as are against that, vote No. Have all the Delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

STATE PUBLISHING CO. HELENA, MONT.

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	- Aye	Cate	- Abs
Anderson, J.	- Aye	Champoux	- Nay
Anderson, O.	- Aye	Choate	- Aye
Arbanas	- Aye	Conover	- Aye
Arness	- Abs	Cross	- Aye
Aronow	- Aye	Dahood	- Aye
Artz	- Aye	Davis	- Abs
Ask	- Aye	Delaney	- Abs
Babcock	- Nay	Driscoll	- Aye
Barnard	- Aye	Drum	- Aye
Bates	- Nay	Eck	- Aye
Belcher	- Aye	Erdmann	- Aye
Berg	- Aye	Eskildsen	- Aye
Berthelson	- Aye	Etchart	- Aye
Blaylock	- Aye	Felt	- Abs
Blend	- Aye	Foster	- Nay
Bowman	- Aye	Furlong	- Nay
Brazier	- Aye	Garlington	- Aye
Brown	- Aye	Graybill	- Aye
Bugbee	- Aye	Gysler	- Aye
Burkhardt	- Aye	Habedank	- Aye
Cain	- Aye	Hanson, R. S.	- Aye
Campbell	- Nay	Hanson, R.	- Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Harbaugh	- Aye	Noble	- Aye
2	Harlow	- Aye	Nutting	- Abs
3	Harper	- Aye	Payne	- Aye
4	Harrington	- Aye	Pemberton	- Aye
5	Heliker	- Aye	Rebal	- Aye
6	Holland	- Aye	Reichert	- Aye
7	Jacobsen	- Aye	Robinson	- Aye
8	James	- Aye	Roeder	- Aye
9	Johnson	- Aye	Rollins	- Nay
10	Joyce	- Aye	Romney	- Aye
11	Kamhoot	- Aye	Rygg	- Aye
12	Kelleher	- Aye	Scanlin	- Nay
13	Leuthold	- Aye	Schiltz	- Aye
14	Loendorf	- Aye	Siderius	- Aye
15	Lorello	- Aye	Simon	- Aye
16	Mahoney	- Aye	Skari	- Aye
17	Mansfield	- Aye	Sparks	- Aye
18	Martin	- Aye	Speer	- Aye
19	McCarvel	- Aye	Studer	- Abs
20	McDonough	- Aye	Sullivan	- Aye
21	McKeon	- Abs	Swanberg	- Aye
22	McNeil	- Aye	Toole	- Abs
23	Melvin	- Aye	Van Buskirk	- Aye
24	Monroe	- Nay	Vermillion	- Aye
25	Murray	- Abs	Wagner	- Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

Ward	- Aye	Wilson	- Nay
Warden	- Aye	Woodmansey	- Aye

CLERK HANSON: Mr. Chairman, eighty Delegates voting Aye, ten voting No.

CHAIRMAN GRAYBILL: Eighty voting Aye and ten voting No, the motion carries. Mr. Joyce, do you want to make a motion to reconsider for that specific purpose?

DELEGATE JOYCE: Mr. Chairman. Having voted on the prevailing side, I move that this committee reconsider its action in its previous consideration of section four, subsection five, the last sentence thereof which reads: The legislature may appoint a legislative post auditor who shall perform such post auditing duties as may be prescribed by law. My reference is to the Order of Business Number Five, Final Consideration, Style and Drafting Executive Article number four.

CHAIRMAN GRAYBILL: All in favor of the motion to reconsider, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: The Ayes have it and it's adopted. Now, Mr. Joyce, do you want to state your motion?

DELEGATE JOYCE: Mr. Chairman. I move that when this committee does arise and report that it recommend that the las-

STATE PUBLISHING CO. HELENA, MONT.

sentence of section four, subsection five, of the Executive report number four from Style and Drafting be amended to delete the following words, quote: The legislature may appoint a legislative post auditor who shall perform such post auditing duties as may be provided by law. And insert in lieu thereof the following language, quote: The legislature shall establish a legislative post audit committee which shall supervise such post auditing duties as may be provided by law. End of quote. Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: I presume that I've already indicated the purpose of the proposed amendment and I don't see any reason to elaborate any further on it.

CHAIRMAN GRAYBILL: Mrs. Bates, do you want to ask a question now?

DELEGATE BATES: Yes, Mr. Chairman. Mr. Mahoney, under the present Consitution -- or the article as we now have it, with the interim committees. Why couldn't this be done without this wording?

CHAIRMAN GRAYBILL: Mr. Mahoney?

DELEGATE MAHONEY: I think it could without this wording, except I just now -- first this body tried to delete that part under the Scanlin motion and was defeated. So I would hesitate to let us get out of here without more -- after we've debated I think we should go ahead with this proposition

STATE PUBLISHING CO. HELENA, MONT.

now and leave it this way.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: In our committee we also discussed locking in the Constitution a legislative post audit, for the simple reason that it's a product of the legislature, that would be responsible to the legislature. If they fail to use it in its proper prospective, it would be useless, and they would have this opportunity to do this anyway; and the way this reads, the legislature shall establish, and they would have to regardless of whether they used it or not. And so I oppose it.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman. I wonder if Mr. Joyce would yield to a question?

CHAIRMAN GRAYBILL: Mr. Joyce?

DELEGATE JOYCE: Mr. Chairman, I yield.

DELEGATE BURKHARDT: Mr. Joyce, I am wondering if, as a body, we wish to name a committee or if you would react to whether we could simply say, the legislature shall provide for post auditing procedures? Could you react to that one?

DELEGATE JOYCE: Well, I could in that the people who asked us to make this reconsideration wanted to spell out that it should be done in the way that it is currently being done.

DELEGATE BURKHARDT: It seems to me, Mr. Chairman, I'm not terribly versed in this area, but in constitutional

STATE PUBLISHING CO. HELENA, MONT.

matters if you simply say, the legislature shall provide for post auditing procedures, then they're definitely provided with that. Since we're not saying in the article that the committee must be balanced politically, we'd be accomplishing the same thing. I won't at this moment amend the motion, but I would simply put it out there for people to think about. Thank you.

CHAIRMAN GRAYBILL: Mrs. Warden.

DELEGATE WARDEN: Mr. President. I would just like to stand in support of Mr. Joyce's motion. I think this is one of the most important things that we can do. I think that spelling out the fact that there shall be a legislative post audit and that it shall be done in the manner as prescribed here is without a doubt the simpliest; it's a working situation. I've checked with a number of people, and in the many year distant future I can't see that this would necessarily have to be changed. I think it's something that is working; it's a system that's set up; it's under, someone has said, under statute. Well, so it is, but I think this is an important enough item to be considered in the Constitution, and I would strongly support Mr. Joyce's motion.

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President and fellow Delegates. I, too, support Mr. Joyce's motion. I think the legislative auditor is one of the finest things that our legislature in the past few years has put into effect; and we should have

STATE PUBLISHING CO. HELENA, MONT.

this office and keep it out of politics if we can. Thank you.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Mr. Chairman. I join with this. We voted a moment ago not to delete it, so the only question now is how to word it. I think Mr. Joyce's committee proposal is plain and will do the job. I rise to ask this question, how does Mr. Aasheim's suggestion tie in here, or should it be tied in right here? Do we need to instruct the Style and Drafting Committee to shift this to Article Ten, section four of the Legislative Article?

CHAIRMAN GRAYBILL: Mr. Harper, if that's directed to me --

DELEGATE HARPER: Yes.

CHAIRMAN GRAYBILL: The rules are suspended for a broad enough purpose that if this passes, the Chair will entertain a motion that the Style and Drafting Committee put it in the Legislative Article.

DELEGATE HARPER: Thank you. I'm not a betting man, as you are aware, but I'll bet this will pass if we'll all let ourselves vote on it right now.

CHAIRMAN GRAYBILL: Well, not yet. Mr. Hanson.

DELEGATE ROD HANSON: Mr. President. I hesitate to even ask a question, George, now. I would like to ask Delegate Joyce a question if he would yield.

CHAIRMAN GRAYBILL: Mr. Joyce?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE JOYCE: I yield.

DELEGATE ROD HANSON: Tom, was there strong feelings in the committee about the use of the word shall instead of may?

DELEGATE JOYCE: Yes.

DELEGATE ROD HANSON: Okay, I support the amendment as suggested by Delegate Joyce.

CHAIRMAN GRAYBILL: Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman. I would like to offer a substitute motion that would read: The legislature shall direct the state auditor to perform a post audit as provided by law. And I'll be like Mr. Harper, I'll bet that this will fail; and I'm sure that Mr. Roeder will enjoy stomping back on me.

CHAIRMAN GRAYBILL: Wait a minute, Mrs. Babcock. Before you've got anything to bet on, you've got to go a little slower. The legislature shall.

DELEGATE BABCOCK: The legislature shall direct the state auditor to perform a post audit as provided by law. I believe that in the committee we intended to --

CHAIRMAN GRAYBILL: Wait a minute, Mrs. Babcock. Shall direct the state auditor to perform --

DELEGATE BABCOCK: Don't you take shorthand, Mr. Graybill?

CHAIRMAN GRAYBILL: No, I don't. To perform what?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE BABCOCK: To perform a post audit as provided by law.

CHAIRMAN GRAYBILL: Audit as provided by law.

DELEGATE BABCOCK: As I recall -- may I speak?

CHAIRMAN GRAYBILL: Mrs. Babcock, now wait a minute. I'm going to let you have the floor. Provided by law. Now, I have to state it so the body understands what we are going. Members of the committee, we now have Mrs. Babcock making a substitute motion to Mr. Joyce's Motion, the terms of which are, that in place of what he suggested we put into the Constitution this sentence: The legislature shall direct the state auditor to perform a post audit as provided by law. Now, Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman. I believe in having the auditor perform this audit that this will definitely take it out of politics because he's an elected official. I believe that in our committee this was the original intent, to strengthen the auditor's office; and I'm almost sure that this won't fail, but I want to have it on the record. I mean that it will fail.

CHAIRMAN GRAYBILL: Mr. Martin.

DELEGATE MARTIN: Mr. Chairman. I want to express my thanks to Mrs. Babcock for putting the thing in its proper focus. We had an extensive debate on that issue which was roundly defeated sixty-two to thirty-one. I hope that Delegate

STATE PUBLISHING CO. HELENA, MONT.

Babcock's motion doesn't prevail and that Delegate Joyce's does.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Just a point of order, that Mrs. Babcock's motion is out of order in that the rules were not opened for that purpose, but were opened for the specifi purpose of offering the amendment which I suggested.

CHAIRMAN GRAYBILL: I think you are absolutely right. Mrs. Babcock, your motion is out of order and I shouldn't have -- I got carried away there, Mrs. Babcock. Mrs. Babcock, if Mr. Joyce's motion doesn't prevail or even if it does, afterwards I'll let you make a motion to suspend the rules for the purpose of this if you want to; but I've already limited the purpose for which we can do this and so I can't let you make that kind of an amendment. I can let you make a stylistic amendment or something of that nature, but I can't let you make one that changes the substance of what we suspended the rules for.

DELEGATE BABCOCK: Are out of order motions recorded in the Journal?

CHAIRMAN GRAYBILL: I suppose they are in the transcript.

DELEGATE BABCOCK: All right, thank you.

CHAIRMAN GRAYBILL: My ruling will now be that Mrs. Babcock's motion is out of order. Thank you, Mr. Joyce, for

STATE PUBLISHING CO. HELENA, MONT.

catching me. All right, is there further discussion of Mr. Joyce's motion which is to delete the last sentence of section four, sub five, of the Executive Article and put in: The legislature shall establish a legislative post audit committee which shall supervise such post auditing duties as may be provided by law.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman. I would like to make a substitute motion here and say: The legislature may provide for the procedure for a legislative post auditor, period.

CHAIRMAN GRAYBILL: Your motion is out of order for the same reason as Mrs. Babcock's is. After we've done this, if you want to make another motion to suspend the rules and go through those steps, I'll be glad to let you; but I can't let you take advantage of the other people's going through the motion -- when we voted on the -- the point is this, when we voted on the motion to suspend the rules, everybody that voted at that time understood that it was for a specific purpose and they knew the language. Now I can't let you make another one without going back and starting over again. Is there further discussion of Mr. Joyce's motion to substitute his language for the language that's presently in there? (No response) Is there a roll call? A roll call has been called for. So many as are in favor of Mr. Joyce's motion to substitute his language about the legislative audit committee for that that's in

STATE PUBLISHING CO. HELENA, MONT.

there, vote Aye; and so many as are opposed, vote No. Have all the Delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, close the ballot.

Aasheim	- Aye	Brown	- Aye
Anderson, J.	- Aye	Bugbee	- Aye
Anderson, O.	- Aye	Burkhardt	- Aye
Arbanas	- Aye	Cain	- Aye
Arness	- Aye	Campbell	- Aye
Aronow	- Aye	Cate	- Aye
Artz	- Aye	Champoux	- Nay
Ask	- Aye	Choate	- Aye
Babcock	- Nay	Conover	- Aye
Barnard	- Aye	Cross	- Aye
Bates	- Nay	Dahood	- Aye
Belcher	- Aye	Davis	- Abs
Berg	- Aye	Delaney	- Abs
Berthelson	- Aye	Driscoll	- Aye
Blaylock	- Aye	Drum	- Aye
Blend	- Aye	Eck	- Aye
Bowman	- Aye	Erdmann	- Aye
Brazier	- Aye	Eskildsen	- Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Etchart	- Aye	Mahoney	- Abs
2	Felt	- Abs	Mansfield	- Aye
3	Foster	- Nay	Martin	- Aye
4	Furlong	- Nay	McCarvel	- Aye
5	Garlington	- Aye	McDonough	- Aye
6	Graybill	- Aye	McKeon	- Aye
7	Gysler	- Aye	McNeil	- Aye
8	Habedank	- Aye	Melvin	- Aye
9	Hanson, R. S.	- Aye	Monroe	- Aye
10	Hanson, R.	- Aye	Murray	- Abs
11	Harbaugh	- Aye	Noble	- Aye
12	Harlow	- Aye	Nutting	- Abs
13	Harper	- Aye	Payne	- Aye
14	Harrington	- Abs	Pemberton	- Aye
15	Heliker	- Aye	Rebal	- Abs
16	Holland	- Abs	Reichert	- Aye
17	Jacobsen	- Aye	Robinson	- Aye
18	James	- Aye	Roeder	- Aye
19	Johnson	- Nay	Rollins	- Aye
20	Joyce	- Aye	Romney	- Aye
21	Kamhoot	- Nay	Rygg	- Aye
22	Kelleher	- Abs	Scanlin	- Nay
23	Leuthold	- Aye	Schiltz	- Aye
24	Loendorf	- Aye	Siderius	- Aye
25	Lorello	- Abs	Simon	- Aye

STATE PUBLISHING CO. HELENA, MONT.

Skari	- Aye	Van Buskirk	- Aye
Sparks	- Aye	Vermillion	- Aye
Speer	- Aye	Wagner	- Aye
Studer	- Abs	Ward	- Aye
Sullivan	- Aye	Warden	- Aye
Swanberg	- Aye	Wilson	- Nay
Toole	- Aye	Woodmansey	- Aye

CHAIRMAN GRAYBILL: Mr. Clerk.

CLERK HANSON: Mr. Chairman, seventy-nine Delegates voting Aye, nine voting No.

CHAIRMAN GRAYBILL: Seventy-nine having voted Aye and nine voting No, Mr. Joyce's motion is adopted. Mr. Aasheim, you may make a motion as to where to put it.

DELEGATE AASHEIM: I move, Mr. Chairman, that this sentence from section four, subsection five, lines twenty-six and twenty-seven, be directed to Style and Drafting to be incorporated into section ten of the Legislative Article, both unicameral and bicameral sections.

CHAIRMAN GRAYBILL: Mr. Aasheim has made a motion to put this new language into the Legislative Article -- section ten of the Legislative Article, unicameral and bicameral. Is there any discussion? Mrs. Bates.

DELEGATE BATES: Mr. Chairman. I think, too, this is where it belongs and I go along with Mr. Aasheim; but is it possible to make an amendment on this sentence, or this section

STATE PUBLISHING CO. HELENA, MONT.

that will be moved?

CHAIRMAN GRAYBILL: Is it a stylistic or is it a substantive change?

DELEGATE BATES: It would be more or less style, I think; maybe substance.

CHAIRMAN GRAYBILL: Well, if you are going to change shall to may, it's not style.

DELEGATE BATES: I'll read it and then you tell me.

CHAIRMAN GRAYBILL: Okay.

DELEGATE BATES: The legislature may provide for the procedure for a legislative post audit, period.

CHAIRMAN GRAYBILL: No, as soon as you say, may, it's no. The point is, ladies and gentlemen, that this body, when Mr. Felt was here originally, put this principle of legislative post audit into the Constitution. Now, this committee decided in the motion that Mr. Joyce has made -- carefully did not take it out. But when you say, may, then it's up to the legislature whether it's in or out. Now, I'm going to come back to you and you can make a motion to suspend the rules to change that, but you can't do it under Mr. Joyce's motion because it's too limited. And that would, you know, make a major change, if the legislature could do away with this if it wanted to. What we've said now is, the legislature must have some kind of a legislative post audit. All right, is there other discussion of Mr. Aasheim's motion about putting it in the Legislative Article,

STATE PUBLISHING CO. HELENA, MONT.

section ten? Mr. Foster.

DELEGATE FOSTER: Mr. Chairman. It's just a point of order in that the original language was, may, and since we had to consider the original language as well as the proposed change, I don't see that the wording, may, is out of order.

CHAIRMAN GRAYBILL: Mr. Foster, the original language in the article is, may; the original language in the proposal of Mr. Joyce is, shall. Now the Chair is going to rule that the, shall, prescribes it here; but I am going to come back and we are going to see if Mrs. Bates or Mrs. Babcock or yourself care to change that. I will be happy to do it, but I can't let the body vote thinking that it's, shall, and then change it to, may, afterwards. That's my point. If you want to challenge me, go ahead.

DELEGATE FOSTER: No, I won't challenge you. I will just say that since, may, was already in there, I think that we had to consider, may.

CHAIRMAN GRAYBILL: Well, it isn't in there now, Mr. Foster. All right, the issue then is whether or not to put this new language in section ten of the Legislative Article. All in favor of moving it to section ten of the Legislative Article, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: That's adopted. Now, while we have this matter before us -- Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman. I was just going to move that when this committee does arise and report after having had under reconsideration Executive Article number four, section four, subsection five, that it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Just let the Chair think a minute here, now. I think the Chair is going to rule you out of order for the moment, Mr. Joyce. We now have this subsection four, sub five, before the committee and before we close it up, so that we're not doing vain things, I want to offer an opportunity to others who might want to move to suspend the rules for a different purpose in conjunction with that section. Mrs. Babcock, do you wish to so move?

DELEGATE BABCOCK: No, Mr. Chairman, but I would like to ask a question. Are all of these changes again placed on Order of Business Number Five so that we can revote on them?

CHAIRMAN GRAYBILL: They are going to go directly to Order of Business Number Five, right.

DELEGATE BABCOCK: So we can change our vote then if we want to?

CHAIRMAN GRAYBILL: Yes. All right, Mrs. Babcock, you don't want to open it. Mrs. Bates, do you want to make a motion to suspend the rules?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES BATES: Yes, I would do so.

CHAIRMAN GRAYBILL: For what purpose?

DELEGATE BATES: To change the language for just one sentence. The legislature may provide for the procedure for a legislative post audit, period. I can't even read my own writing. Just one sentence.

CHAIRMAN GRAYBILL: All right. The legislature may provide --

DELEGATE BATES: For the procedure for a legislative post audit.

CHAIRMAN GRAYBILL: May I say: The legislature may provide procedure?

DELEGATE BATES: For the procedures for a legislative post audit, or auditor.

CHAIRMAN GRAYBILL: Do you want to write it down and send it to the Chair?

DELEGATE BATES: Yes. Mr. Chairman, also, what section does this go into?

CHAIRMAN GRAYBILL: Well, at the moment it's going to the Legislative, section ten.

DELEGATE BATES: Section ten, okay, fine; I'll write it down.

CHAIRMAN GRAYBILL: Very well, Mrs. Bates makes a motion to suspend the rules for the purpose of making the sentence say: The legislature may provide the procedures for a

STATE PUBLISHING CO. HELENA, MONT.

legislative post audit. Is that correct, Mrs. Bates?

DELEGATES BATES: Yes.

CHAIRMAN GRAYBILL: For a legislative post audit. Now, the meat of the matter is that it makes it discretionary; it says: The legislature may provide the procedures for a legislative post audit. Now, Mrs. Bates, do you want to discuss your motion to suspend the rules?

DELEGATE BATES: Yes, Mr. Chairman. I feel that this would be better than locking in to the Constitution, shall, for something that may not be used effectively. And if it is as it is now, and the legislature wants it, they can do so. Thank you.

CHAIRMAN GRAYBILL: Is there other discussion of Mrs. Bates' motion? (No response) Shall we have a roll call or not? Yes, roll call. So many as shall be in favor of Mrs. Bates' motion to suspend the rules for the purpose of making the legislative post audit sentence read, The legislature may provide the procedures for a legislative post audit, vote Aye; so many as are opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Cast the ballot.

Aasheim - Nay Anderson, J. - Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Anderson, O.	- Nay	Cross	- Aye
2	Arbanas	- Nay	Dahood	- Abs
3	Arness	- Nay	Davis	- Abs
4	Aronow	- Nay	Delaney	- Abs
5	Artz	- Nay	Driscoll	- Nay
6	Ask	- Abs	Drum	- Nay
7	Babcock	- Nay	Eck	- Nay
8	Barnard	- Nay	Erdmann	- Nay
9	Bates	- Aye	Eskildsen	- Nay
10	Belcher	- Nay	Etchart	- Aye
11	Berg	- Nay	Felt	- Abs
12	Berthelson	- Nay	Foster	- Aye
13	Blaylock	- Nay	Furlong	- Nay
14	Blend	- Nay	Garlington	- Nay
15	Bowman	- Nay	Graybill	- Nay
16	Brazier	- Nay	Gysler	- Nay
17	Brown	- Nay	Habedank	- Nay
18	Bugbee	- Nay	Hanson, R. S.	- Nay
19	Burkhardt	- Nay	Hanson, R.	- Nay
20	Cain	- Nay	Harbaugh	- Nay
21	Campbell	- Nay	Harlow	- Nay
22	Cate	- Abs	Harper	- Nay
23	Champoux	- Nay	Harrington	- Abs
24	Choate	- Nay	Heliker	- Nay
25	Conover	- Nay	Holland	- Abs

STATE
PUBLISHING CO.
HELENA, MONT.

Jacobsen	- Nay		Reichert	- Aye
James	- Nay		Robinson	- Nay
Johnson	- Aye		Roeder	- Abs
Joyce	- Nay		Rollins	- Nay
Kamhoot	- Abs		Romney	- Nay
Kelleher	- Nay		Rygg	- Nay
Leuthold	- Aye		Scanlin	- Abs
Loendorf	- Aye		Schiltz	- Nay
Lorello	- Abs		Siderius	- Nay
Mahoney	- Abs		Simon	- Nay
Mansfield	- Nay		Skari	- Nay
Martin	- Nay		Sparks	- Nay
McCarvel	- Nay		Speer	- Abs
McDonough	- Nay		Studer	- Abs
McKeon	- Nay		Sullivan	- Nay
McNeil	- Nay		Swanberg	- Abs
Melvin	- Nay		Toole	- Abs
Monroe	- Nay		Van Buskirk	- Nay
Murray	- Abs		Vermillion	- Nay
Noble	- Nay		Wagner	- Nay
Nutting	- Abs		Ward	- Nay
Payne	- Nay		Warden	- Nay
Pemberton	- Abs		Wilson	- Nay
Rebal	- Abs		Woodmansey	- Nay

CHAIRMAN GRAYBILL: Mr. Driscoll.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE DRISCOLL: Driscoll votes No.

CHAIRMAN GRAYBILL: Driscoll votes No.

CLERK HANSON: Mr. Chairman, Driscoll votes No; eight Delegates voting Aye and seventy-one voting No.

CHAIRMAN GRAYBILL: Seventy-one having voted No and eight voting Aye, the motion is defeated. Mr. Foster, do you want any motions?

DELEGATE FOSTER: No.

CHAIRMAN GRAYBILL: Okay. Mr. Joyce, the Chair will entertain a motion from you.

DELEGATE JOYCE: Mr. Chairman. I move that when this committee does arise and report after having under reconsideration Order of Business Number Five, Final Consideration, Style and Drafting Executive report number four, that it recommend the same be adopted as amended and that the Style and Drafting Committee be instructed to insert the same in the appropriate section of the Legislative Article.

CHAIRMAN GRAYBILL: So many as shall be in favor of Mr. Joyce's motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: So many as shall be opposed, say No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: The ayes have it and it is so ordered. Mr. Eskildsen.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ESKILDSEN: I move that the Committee of the Whole rise and finally report.

CHAIRMAN GRAYBILL: The motion is that the Committee of the Whole rise and finally report on this matter. All in favor, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It is so ordered.

PRESIDENT GRAYBILL: Will the Clerk please read the committee report.

CLERK HANSON: (Reading) March 20, 1972. Mr. President. We, your Committee of the Whole, having had under consideration business on General Orders recommend as follows: That the committee rise and finally report. Signed, Graybill, Chairman. (End reading)

PRESIDENT GRAYBILL: Does anyone want the committee report read in full?

DELEGATES: No.

PRESIDENT GRAYBILL: Very well, Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move the adoption of the Committee of the Whole report.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report. All in favor, say Aye.

DELEGATES: Aye.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: The Ayes have it and it's adopted. Mr. Eskildsen.

DELEGATE ESKILDSEN: Without objection, may we be on Order of Business Number Seven?

PRESIDENT GRAYBILL: Is there any objection to our moving to Order of Business Number Seven, Motions and Resolutions? (No response) Very well, without objection, Mr. Eskildsen, we are on Order of Business Number Seven.

DELEGATE ESKILDSEN: Mr. President. I move we take the Legislative Article from Style and Drafting and place it on Order of Business Number Five.

PRESIDENT GRAYBILL: The motion is to take the Legislative Article from Style and Drafting and place it on Order of Business Number Five; the purpose being to adopt into it by final roll call vote, as Mrs. Babcock pointed out, the language we are now moving to it. All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed?

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: Very well, Legislative is back on Order of Business Number Five. Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move we take

STATE PUBLISHING CO. HELENA, MONT.

Revenue and Finance from Style and Drafting and place it on Order of Business Number Five.

PRESIDENT GRAYBILL: The purpose of this motion is that we failed to put this one on Order of Business Number Five this morning, and we did amend that section so we have to re-adopt that section on final vote in Order of Business Number Five. All in favor of that motion, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: Very well, both Revenue and Finance and Legislative are now on Order of Business Number Five, along with Local Government and General Government. Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President. I move we stand in recess this day until 1:30.

PRESIDENT GRAYBILL: The motion is to recess this convention until 1:30 P.M. this afternoon. All in favor, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: All opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: We will recess after Mrs. Warden makes an announcement. Mrs. Warden.

DELEGATE WARDEN: Could I see all the members of the

STATE PUBLISHING CO. HELENA, MONT.

Public Information Committee in the Rules Committee room, right now. Thank you.

PRESIDENT GRAYBILL: Very well, Public Information in the Rules Committee room on recess. We are in recess.

(Recess 12:25 P.M.)

STATE PUBLISHING CO. HELENA, MONT.

MONTANA CONSTITUTIONAL CONVENTION

FIFTIETH DAY

Monday, March 20, 1972 — Convention Hall

1:50 o'clock, P.M. — Helena, Montana

PRESIDENT GRAYBILL: The Convention will come to order. Members of the Committee, members of the Convention, when we adjourned, we were on Order of Business Number Seven, having moved Legislative and Revenue and Finance into Order of Business Number Five. Now, it's come to our attention that we're not quite through with that, so Mr. Eskildsen has another motion.

DELEGATE ESKILDSEN: Mr. President, I move we take the Executive proposal from Style and Drafting and refer it to Order of Business Number Five.

PRESIDENT GRAYBILL: The purpose of this motion is, in order to move that material from Executive, we want to reenact the section with it removed so there's no question it's properly done. All in favor of moving Executive from Style and Drafting to Order of Business Number Five say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: Very well, now we'll be on -- without objection, we'll be on Order of Business Number Five.

STATE PUBLISHING CO. HELENA, MONT.

Now, ladies and gentlemen, if you have your Style and Drafting reports with you, you can follow this, but in any event we'll straighten it up for the record. We are going to take up first Executive -- the Executive proposal number four, Roman four -- the Executive proposal, Roman four -- and we are going to reconsider section four thereof, which appears on page two -- page two of the Executive report. And the point of this is, section four has at the present time five subdivisions and the fifth subdivision used to contain the language: The legislature may appoint a legislative post-auditor who shall perform such post-auditing duties as may be provided by law. Now, we took that out of that section of Executive this morning, and we left in the language Mrs. Babcock asked about: The superintendent of public instruction and the auditor shall have such duties as are provided by law. And, we want to re-enact on final adoption section four of the Executive article so that we have approved section four with the deleted matter out. Is there anyone that has any question about what we are voting on? It's final adoption on Executive article, section four, Duties, with five subsections. The last subsection has been amended this morning in Committee of the Whole and adopted by the Convention. Very well, the issue is on section four. So many as shall be in favor of adopting section four of the Executive article, as amended this morning, please vote Aye on the voting machine. So many as are opposed, vote No. Have

STATE
PUBLISHING CO.
HELENA, MONT.

all the Delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, will the Clerk please take the ballot?

Aasheim	-	Aye	Brown	-	Aye
Anderson, J.	-	Aye	Bugbee	-	Aye
Anderson, O.	-	Aye	Burkhardt	-	Absent
Arbanas	-	Aye	Cain	-	Aye
Arness	-	Absent	Campbell	-	Aye
Aronow	-	Absent	Cate	-	Aye
Artz	-	Absent	Champoux	-	Aye
Ask	-	Aye	Choate	-	Aye
Babcock	-	Nay	Conover	-	Aye
Barnard	-	Aye	Cross	-	Aye
Bates	-	Nay	Dahood	-	Aye
Belcher	-	Aye	Davis	-	Excused
Berg	-	Aye	Delaney	-	Absent
Berthelson	-	Aye	Driscoll	-	Aye
Blaylock	-	Aye	Drum	-	Absent
Blend	-	Aye	Eck	-	Aye
Bowman	-	Absent	Erdmann	-	Aye
Brazier	-	Aye	Eskildsen	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Etchart	-	Aye	Mansfield	-	Absent
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Absent	McKeon	-	Absent
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Nay
Hanson, R.	-	Aye	Murray	-	Excused
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Excused
Harper	-	Absent	Payne	-	Aye
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Absent
Holland	-	Absent	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Absent	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Absent	Scanlin	-	Nay
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Absent	Skari	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Sparks	-	Absent	Vermillion	-	Aye
Speer	-	Aye	Wagner	-	Aye
Studer	-	Aye	Ward	-	Aye
Sullivan	-	Aye	Warden	-	Aye
Swanberg	-	Aye	Wilson	-	Nay
Toole	-	Absent	Woodmansey	-	Aye
Van Buskirk	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, seventy-three Delegates voting Aye, five voting No.

PRESIDENT GRAYBILL: Seventy-three having voted Aye and five No, section four, as amended, is adopted on final adoption. All right, now, ladies and gentlemen, if you will take your Legislative Style and Drafting report number three -- Legislative Style and Drafting report number three -- and the amendment there is to section ten of the unicameral and section ten of the bicameral. We will vote on these separately since we did originally. Section ten of the unicameral is on page three -- page three -- and what we will be doing is adding a subsection six. Section ten is on organization and procedure and it has -- we will be adding a subsection five -- I beg your pardon. It has four subsections, the last -- the fourth of which is, the legislature may establish a legislative council and other interim committees. We will now be adding a subsection five to state: The legislature shall establish a legislative post-auditing committee which

STATE PUBLISHING CO. HELENA, MONT.

shall supervise such post-auditing duties as may be provided by law. Now, the only mistake I made there, it should say: legislative post-audit committee. The legislature shall establish a legislative post-audit committee which shall supervise such post-auditing duties as may be provided by law. Subsection five of section ten of the unicameral Legislative article.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, just for the purposes of -- I probably was asleep when this amendment -- or I was thinking of something else when this amendment went in but for styling purposes and to be uniform, I would like to work out some way to strike that word, such, and strike, as may -- as may be, so it conforms with the rest of the document.

PRESIDENT GRAYBILL: Then it would read: -- which shall supervise post-auditing duties provided by law. Is that what you want it to say?

DELEGATE SCHILTZ: (Inaudible. Microphone not on.)

PRESIDENT GRAYBILL: All right, on the Style and -- what makes you think we can do this here?

DELEGATE SCHILTZ: I gave you the flag in the first instance. I said I didn't know that we could do it here, but if we could get some tacit agreement it would save us going back or saving a section that provides -- or that reads differently from all the rest of them.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Mr. Eskildsen, are you with us?

(Delegate Eskildsen picked up his telephone.)

PRESIDENT GRAYBILL: No, no, not on the phone. Mr. Eskildsen, the problem is that Style and Drafting would like to strike some unnecessary words. Do we have to go back to ten, then? Yes?

DELEGATE ESKILDSEN: No, I don't think so if it can be done without changing the intent of it.

PRESIDENT GRAYBILL: It doesn't change the intent.

DELEGATE ESKILDSEN: I think they can do it in Style and Drafting then.

PRESIDENT GRAYBILL: Well, but can we do it here?

DELEGATE ESKILDSEN: Yes, we can do it here if you want to make the motions.

PRESIDENT GRAYBILL: All right, Mr. Schiltz, make your motion again. We'll do it here, for better or for worse.

DELEGATE SCHILTZ: Well, I don't have the material in front of me, so I move that the word, such, and the words, as may be, be struck and if anybody on my committee demurs, please raise his hand.

PRESIDENT GRAYBILL: All right. Now, I've done that on the copy I have here and it now reads: The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law. We have struck

STATE
BLISHING CO.
ELENA, MONT.
3

the words -- it used to say, which shall supervise such post-auditing duties -- they don't like that word -- as may -- and we have struck the as may -- and just said, as provided by law, so it now says: -- post-auditing committee which shall supervise post-auditing duties as provided by law. So many as shall be in favor of that Style and Drafting change, please say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: All right, that's amended by Style and Drafting. All right, now we're back in -- back on Order of Business Number Five and we are discussing amending section ten of the unicameral article by adding a subsection five thereto which will say: The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law. So many as shall be in favor of so amending the unicameral section ten, vote Aye, and so many as --

DELEGATES: Aye.

PRESIDENT GRAYBILL: No, no, on the voting machines this time. And so many as shall be opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to

STATE PUBLISHING CO. HELENA, MONT.

change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, we'll take the ballot.

Mr. Driscoll.

DELEGATE DRISCOLL: (Inaudible. Microphone not turned on.)

PRESIDENT GRAYBILL: Very well, Mr. Driscoll votes No.

Aasheim	-	Aye	Bowman	-	Aye
Anderson J.	-	Aye	Brazier	-	Aye
Anderson, O.	-	Aye	Brown	-	Aye
Arbanas	-	Aye	Bugbee	-	Aye
Arness	-	Aye	Burkhardt	-	Absent
Aronow	-	Aye	Cain	-	Aye
Artz	-	Aye	Campbell	-	Aye
Ask	-	Nay	Cate	-	Aye
Babcock	-	Nay	Champoux	-	Aye
Barnard	-	Aye	Choate	-	Aye
Bates	-	Absent	Conover	-	Aye
Belcher	-	Aye	Cross	-	Aye
Berg	-	Aye	Dahood	-	Aye
Berthelson	-	Aye	Davis	-	Excused
Blaylock	-	Aye	Delaney	-	Absent
Blend	-	Aye	Driscoll	-	Nay

STATE
LISHING CO.
LENA, MONT.

1	Drum	-	Absent	Leuthold	-	Aye
2	Eck	-	Aye	Loendorf	-	Aye
3	Erdmann	-	Aye	Lorello	-	Aye
4	Eskildsen	-	Aye	Mahoney	-	Absent
5	Etchart	-	Aye	Mansfield	-	Aye
6	Felt	-	Absent	Martin	-	Aye
7	Foster	-	Aye	McCarvel	-	Aye
8	Furlong	-	Aye	McDonough	-	Aye
9	Garlington	-	Absent	McKeon	-	Aye
10	Gysler	-	Aye	McNeil	-	Aye
11	Habedank	-	Aye	Melvin	-	Aye
12	Hanson, R.S.	-	Aye	Monroe	-	Nay
13	Hanson, R.	-	Aye	Murray	-	Excused
14	Harbaugh	-	Aye	Noble	-	Aye
15	Harlow	-	Aye	Nutting	-	Excused
16	Harper	-	Aye	Payne	-	Aye
17	Harrington	-	Aye	Pemberton	-	Aye
18	Heliker	-	Aye	Rebal	-	Absent
19	Holland	-	Absent	Reichert	-	Aye
20	Jacobsen	-	Aye	Robinson	-	Aye
21	James	-	Aye	Roeder	-	Aye
22	Johnson	-	Aye	Rollins	-	Aye
23	Joyce	-	Aye	Romney	-	Aye
24	Kamhoot	-	Aye	Rygg	-	Aye
25	Kelleher	-	Aye	Scanlin	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

Schiltz	-	Aye	Toole	-	Absent
Siderius	-	Aye	Van Buskirk	-	Aye
Simon	-	Aye	Vermillion	-	Absent
Skari	-	Aye	Wagner	-	Aye
Sparks	-	Aye	Ward	-	Aye
Speer	-	Aye	Warden	-	Aye
Studer	-	Aye	Wilson	-	Aye
Sullivan	-	Aye	Woodmansey	-	Aye
Swanberg	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-one Delegates voting Aye, five voting No.

PRESIDENT GRAYBILL: Very well, we have adopted that in the unicameral article. Now, if you will turn on page three -- page two and three, behind the manila divider sheet, to the bicameral article, we will put the same amendment to section ten of the bicameral article. Now, section ten of the bicameral article at this time contains five subdivisions. The new subdivision will become sub five, and if you approve this, sub five will become sub six. That's another Style and Drafting change. Let's put it this way. All in favor of making sub five -- present sub five -- sub six so that sub five is open, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: There, we've style and drafted it. Now, the motion is -- all right, the motion is to put into section ten of the bicameral article a subdivision five which shall read: The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law. So many as may be in favor of the bicameral article with that language inserted as sub five and the other sub five, sub six, vote Aye on the voting machines and if you're opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

(Clerk Hanson informed the Chair that the voting machine had not operated properly.)

PRESIDENT GRAYBILL: Very well, the voting machine -- now it's all right -- eighty-four to four, you got it? Very well, something happened to the voting machine. We are going to void that ballot. So many as shall be in favor on the bicameral article ten -- section ten -- to add that language as subsection five and make subsection five subsection six vote Aye on the voting machine. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to

STATE PUBLISHING CO. HELENA, MONT.

change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Absent	Campbell	-	Aye
Anderson, J.	-	Aye	Cate	-	Aye
Anderson, O.	-	Aye	Champoux	-	Aye
Arbanas	-	Aye	Choate	-	Aye
Arness	-	Absent	Conover	-	Aye
Aronow	-	Aye	Cross	-	Aye
Artz	-	Aye	Dahood	-	Aye
Ask	-	Aye	Davis	-	Excused
Babcock	-	Nay	Delaney	-	Absent
Barnard	-	Aye	Driscoll	-	Aye
Bates	-	Nay	Drum	-	Absent
Belcher	-	Aye	Eck	-	Aye
Berg	-	Aye	Erdmann	-	Aye
Berthelson	-	Aye	Eskildsen	-	Aye
Blaylock	-	Aye	Etchart	-	Aye
Blend	-	Aye	Felt	-	Absent
Bowman	-	Aye	Foster	-	Aye
Brazier	-	Aye	Furlong	-	Aye
Brown	-	Aye	Garlington	-	Absent
Bugbee	-	Aye	Gysler	-	Aye
Burkhardt	-	Absent	Habedank	-	Aye
Cain	-	Aye	Hanson, R.S.	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Hanson, R.	-	Aye	Murray	-	Excused
2	Harbaugh	-	Aye	Noble	-	Aye
3	Harlow	-	Aye	Nutting	-	Absent
4	Harper	-	Aye	Payne	-	Aye
5	Harrington	-	Aye	Pemberton	-	Aye
6	Heliker	-	Aye	Rebal	-	Absent
7	Holland	-	Absent	Reichert	-	Aye
8	Kacpbsen	-	Aye	Robinson	-	Aye
9	James	-	Aye	Roeder	-	Aye
10	Johnson	-	Aye	Rollins	-	Aye
11	Joyce	-	Aye	Romney	-	Aye
12	Kamhoot	-	Aye	Rygg	-	Aye
13	Kelleher	-	Aye	Scanlin	-	Nay
14	Leuthold	-	Aye	Schiltz	-	Aye
15	Loendorf	-	Aye	Siderius	-	Aye
16	Lorello	-	Aye	Simon	-	Aye
17	Mahoney	-	Aye	Skari	-	Aye
18	Mansfield	-	Aye	Sparks	-	Aye
19	Martin	-	Aye	Speer	-	Aye
20	McCarvel	-	Aye	Studer	-	Aye
21	McDonough	-	Aye	Sullivan	-	Aye
22	McKeon	-	Absent	Swanberg	-	Aye
23	McNeil	-	Aye	Toole	-	Absent
24	Melvin	-	Aye	Van Buskirk	-	Aye
25	Monroe	-	Nay	Vermillion	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Wagner	-	Aye	Wilson	-	Nay
Ward	-	Aye	Woodmansey	-	Aye
Warden	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-one Delegates voting Aye, five voting No.

PRESIDENT GRAYBILL: Eighty-one voting Aye and five voting No, that amendment -- that section is adopted as amended. Now, Mr. Aasheim has correctly pointed out that section fifteen of the unicameral article contains a reference to a referendum and contains the bicameral article's -- Mr. Aasheim, I don't know if you need to make the motion. The point is, if you'll turn to page six in your Legislative pamphlets -- actually page five is section fifteen -- and on page six, subsection three (d), contains section ten out of the bicameral article, and we need to add thereto the subsection five to (d), section ten, and make subsection five, subsection six, just like we did before. So, at this time I will put the question whether or not you wish to readopt section fifteen, as amended. The issue, then, is whether to adopt section fifteen of the unicameral article, which contains section ten of the bicameral article as sub three sub (d), and therein add as a sub five the language: The legislature shall establish a post-audit committee which shall supervise post-auditing duties provided by law. So many as shall be in favor of section fifteen with that amendment, vote Aye

STATE PUBLISHING CO. HELENA, MONT.

on the voting machine, and so many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Aye	Brown	-	Aye
Anderson, J. H.	-	Aye	Bugbee	-	Aye
Anderson, O.	-	Aye	Burkhardt	-	Absent
Arbanas	-	Aye	Cain	-	Aye
Arness	-	Absent	Campbell	-	Aye
Aronow	-	Aye	Cate	-	Aye
Artz	-	Aye	Champoux	-	Aye
Ask	-	Aye	Choate	-	Aye
Babcock	-	Nay	Conover	-	Aye
Barnard	-	Aye	Cross	-	Aye
Bates	-	Absent	Dahood	-	Aye
Belcher	-	Aye	Davis	-	Excused
Berg	-	Aye	Delaney	-	Absent
Berthelson	-	Aye	Driscoll	-	Aye
Blaylock	-	Aye	Drum	-	Absent
Blend	-	Aye	Eck	-	Aye
Bowman	-	Aye	Erdmann	-	Aye
Brazier	-	Aye	Eskildsen	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

Etchart	-	Nay	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Absent	McKeon	-	Absent
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R.S.	-	Absent	Monroe	-	Nay
Hanson, R.	-	Aye	Murray	-	Excused
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Excused
Harper	-	Aye	Payne	-	Aye
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Absent
Holland	-	Absent	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Nay	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Aye	Scanlin	-	Nay
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Aye	Skari	-	Aye

STATE
BLISHING CO.
ELENA, MONT.
3

Sparks	-	Aye	Vermillion	-	Aye
Speer	-	Aye	Wagner	-	Aye
Studer	-	Aye	Ward	-	Aye
Sullivan	-	Aye	Warden	-	Aye
Swanberg	-	Aye	Wilson	-	Nay
Toole	-	Absent	Woodmansey	-	Aye
Van Buskirk	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, seventy-eight Delegates voting Aye, six voting No.

PRESIDENT GRAYBILL: Seventy-eight having voted Aye and six having voted No, that section is readopted on final reading. Now, ladies and gentlemen, if you will turn to your Revenue and Finance Style and Drafting report number seven -- Roman seven -- Revenue and Finance, and if you will turn to page two thereof, and on page two thereof you will find section six, containing two subdivisions and the second subdivision contains the twelve words which we struck therefrom this morning upon a motion to suspend the rules. So, at this time, I would like to put to the body for final adoption, section six, including two subdivisions, the second of which is amended, of the Revenue and Finance article number ten. The amended subdivision now says: Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature, period. So many as shall be in favor of section six, including two subdivisions,

STATE PUBLISHING CO. HELENA, MONT.

as amended, vote Aye on the voting machine. So many as shall be opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	-	Aye	Brown	-	Aye
Anderson, J.H.	-	Aye	Bugbee	-	Aye
Anderson, O.	-	Aye	Burkhardt	-	Absent
Arbanas	-	Aye	Cain	-	Aye
Arness	-	Absent	Campbell	-	Aye
Aronow	-	Aye	Cate	-	Aye
Artz	-	Aye	Champoux	-	Absent
Ask	-	Nay	Choate	-	Aye
Babcock	-	Aye	Conover	-	Aye
Barnard	-	Aye	Cross	-	Aye
Bates	-	Aye	Dahood	-	Aye
Belcher	-	Aye	Davis	-	Excused
Berg	-	Aye	Delaney	-	Absent
Berthelson	-	Aye	Driscoll	-	Aye
Blaylock	-	Aye	Drum	-	Absent
Blend	-	Aye	Eck	-	Aye
Bowman	-	Aye	Erdmann	-	Aye
Brazier	-	Aye	Eskildsen	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Etchart	-	Nay	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Nay	McDonough	-	Aye
Garlington	-	Absent	McKeon	-	Absent
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R.S.	-	Aye	Monroe	-	Nay
Hanson, R.	-	Aye	Murray	-	Excused
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Excused
Harper	-	Aye	Payne	-	Aye
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Aye
Holland	-	Absent	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Aye	Scanlin	-	Absent
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Aye	Skari	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Sparks	-	Aye	Vermillion	-	Aye
Speer	-	Aye	Wagner	-	Aye
Studer	-	Aye	Ward	-	Aye
Sullivan	-	Aye	Warden	-	Aye
Swanberg	-	Aye	Wilson	-	Aye
Toole	-	Absent	Woodmansey	-	Aye
Van Buskirk	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-three Delegates voting Aye, three voting No.

PRESIDENT GRAYBILL: Eighty-three having voted Aye and three voting No, section six, as amended, of Revenue and Finance is readopted. Now, if I may have your attention, someone has pointed out to me that on the second vote on the bicameral legislative article, they say I did not call for a No vote, and that's entirely possible. However, it was a recorded machine vote and you could have voted No, and in fact some did. Does anyone want to test -- or does anyone want to challenge that? Now's the time to challenge it. It was overwhelmingly Aye.

(No response)

PRESIDENT GRAYBILL: So, if everybody understood they could vote No, I guess the record may so show. We'll throw that one away. All right, Mr. Eskildsen, I think we should --

DELEGATE ESKILDSEN: Without objection, Mr. Presi-

STATE PUBLISHING CO. HELENA, MONT.

dent, may we be on Order of Business Number Ten?

PRESIDENT GRAYBILL: Well, before we go to Order of Business Number Ten, the Chair will reassign Revenue and Finance and Legislative and Executive back to Style and Drafting for inclusion in the final document, as amended. Very well, now, you want to be on Order of Business Number Ten?

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, wasn't there one more? Wasn't there four of them? Let's see, Executive, Legislative, Revenue and Finance -- I guess you're right, sir. Pardon me. Mr. President, I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under general orders.

PRESIDENT GRAYBILL: The motion is this Convention resolve itself into Committee of the Whole. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention resolved into Committee of the Whole, Delegate Graybill in the Chair.)

CHAIRMAN GRAYBILL: Very well, we are in Committee of the Whole now and we will take up report number eleven, Local Government. If you will turn to page five of your Local

STATE PUBLISHING CO. HELENA, MONT.

Government Style and Drafting proposal. You will recall that -- Mr. Gysler, for what purpose do you arise?

DELEGATE GYSLER: Mr. Chairman, we had number eleven on our desks this morning and the Pages come along and took them away and I haven't received another one yet.

CHAIRMAN GRAYBILL: Is there anyone else that doesn't have number eleven? Will the Pages get Mr. Gysler and Mr. Johnson another number eleven? Look on my desk, Erv.

DELEGATE GYSLER: You're missing, too.

CHAIRMAN GRAYBILL: How about eleven? How many don't have eleven?

(Various Delegates raised their hands.)

CHAIRMAN GRAYBILL: All right, can the Pages find some number elevens? Check the -- you might as well look for number twelve while you're doing it. Now, those who did not get number eleven, hold up your hands and the Page will give them to you. May the Committee be in order. Very well, we are going to take up first Local Government number eleven on page -- you should turn to page five. Now, before we do that, Mr. Schiltz, will you make a motion that we suspend the rules -- suspend Rule Twenty-Three, concerning the forty-eight hours?

DELEGATE SCHILTZ: I move that we suspend the Rule Twenty-Three and the requirement that Style and Drafting reports be on the desks for forty-eight hours, or any other committee report, for the purpose of taking the matter up at this

STATE PUBLISHING CO. HELENA, MONT.

time.

CHAIRMAN GRAYBILL: Very well, the motion is to suspend Rule Twenty-Three on Local Government proposal number eleven so that we may consider it at this time, it not having lain forty-eight hours on your desks. All in favor of the motion say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: So ordered. Will the Clerk please read the title and section one of proposal number eleven?

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-1972, Report of Committee on Style, Drafting, Transition and Submission on Local Government, number eleven. Reported March 20, 1972, John M. Schiltz, chairman. Be it proposed by the Local Government Committee that there be a new article on local government to read as follows: Article, Local Government. Section one, Definition. (End reading)

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, if I can make a short statement first, I want the committee to know that I didn't quit with Mr. Woodmansey and that I'm up here because there's some filming being done and then if I lapse into Wilson-

STATE PUBLISHING CO. HELENA, MONT.

esque or Mahoneyesque at some time, it won't be anything but a change in style. All the substance will still be there. Ready?

CHAIRMAN GRAYBILL: Very well.

DELEGATE SCHILTZ: I move that when this committee does rise and report, after having had under consideration section one, Local Government Style and Drafting Report number eleven, it recommend the same be adopted. Mr. Chairman, there are no changes in section one.

CHAIRMAN GRAYBILL: Is there any discussion of section one?

(No response)

CHAIRMAN GRAYBILL: So many as shall be in favor of section one of Mr. Schiltz's motion that we adopt section one, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Read section two, Mr. Clerk.

CLERK HANSON: (Reading) Section two, Counties.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration section two, Style and Drafting report number

STATE PUBLISHING CO. HELENA, MONT.

eleven, it recommend the same be adopted.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Minor style changes. We changed the word, adoption, to date of ratification. Otherwise, a couple of singulars. We did change a shall to a may because there was a negative already in there. Otherwise, all style.

CHAIRMAN GRAYBILL: Is there any discussion of section two?

(No response)

CHAIRMAN GRAYBILL: As many as are in favor of section two, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Will the Clerk please read section three?

CLERK HANSON: (Reading) Section three, Forms of Government, containing two subsections. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration section three, subsection one, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, some change in language. You'll note we did put a

STATE PUBLISHING CO. HELENA, MONT.

such in here but it needed it because of a previous reference. Otherwise, minor style changes.

CHAIRMAN GRAYBILL: Is there any discussion of section three, sub one?

(No response)

CHAIRMAN GRAYBILL: Very well, everyone in favor of Mr. Schiltz's motion on section three, sub one, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration section three, sub two, Style and Drafting report number eleven, it recommend the same be adopted. Again, Mr. Chairman, some rearrangement of language without changing the substance. All style changes.

CHAIRMAN GRAYBILL: Very well, is there any discussion of section three, sub two?

(No response)

CHAIRMAN GRAYBILL: Very well. All in favor of section three, sub two, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: It's adopted. Will the Clerk read section two -- or section four?

CLERK HANSON: (Reading) Section four, General Powers, containing two subsections. (End reading)

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section four, subsection one, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, once again, we rearranged the language. We deleted the part about under sections five and six for the reason that that's the only way any self-government powers could be had and we didn't see any necessity for -- that's on line twelve -- any necessity for that language; put the material into sub-subsections; otherwise, it's all style.

CHAIRMAN GRAYBILL: Please note that four, sub one, has (a), (b), and (c) in it now, so that we are talking about lines eleven through twenty-three on page six. Is there any discussion?

(No response)

CHAIRMAN GRAYBILL: Very well. So many as shall be in favor of Mr. Schiltz's motion on section four, sub one, say Aye.

DELEGATES: Aye.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section four, sub two, Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration section four, sub two, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, we moved what had been a subsection three down and gave it the dignity of a subsection all by itself. The same material.

CHAIRMAN GRAYBILL: Is there any discussion of subsection two?

(No response)

CHAIRMAN GRAYBILL: Very well. All in favor of section four, subsection two, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Mr. Clerk, read section five.

CLERK HANSON: (Reading) Section five, Self-Government Charters, containing three subsections. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under

STATE PUBLISHING CO. HELENA, MONT.

consideration section five, subsection one, it recommend the same be adopted. Mr. Chairman, these are style changes. I will raise one flag. On line twenty-seven we struck out the words, and may set limits, for the reason that if nothing is said on that subject the legislature may set limits in any case. We thought the language unnecessary and so deleted it. Otherwise, some substitution of words and style changes.

CHAIRMAN GRAYBILL: Is there any discussion of section five?

(No response)

CHAIRMAN GRAYBILL: Very well, all in favor of adopting section five say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: Section five is adopted. Section five, sub two, Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration section five, subsection two, Style and Drafting report number eleven, it recommend the same be adopted. Very few changes, Mr. Chairman. Gave section two a new number and that's all.

CHAIRMAN GRAYBILL: Any discussion of five, sub two?

(No response)

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: All in favor of five, sub two, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Five, sub three.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section five, sub three, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, we struck the words on line nine, with respect to a local government unit, because this is what, after all, we are talking about and we didn't think they were necessary.

CHAIRMAN GRAYBILL: Any discussion of five, sub three?

(No response)

CHAIRMAN GRAYBILL: All in favor of five, sub three, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section five -- section six, Mr. Clerk.

CLERK HANSON: (Reading) Section six, Self-Government Powers. (End reading)

STATE PUBLISHING CO. HELENA, MONT.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section six, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, these are all rather minor style changes.

CHAIRMAN GRAYBILL: Any discussion of section six?

(No response)

CHAIRMAN GRAYBILL: All in favor of section six say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section seven, Mr. Clerk.

CLERK HANSON: (Reading) Section seven, Intergovernmental Cooperation. (End reading)

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section seven, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, members of the Committee, we completely rewrote section seven and if you read the way it was in the first instance and com-

STATE PUBLISHING CO. HELENA, MONT.

pare it with the way we rewrote it, I think you'll see why. It was one rather long, involved sentence and we broke it up into possibly one or two sentences -- in two sections -- but think we made it eminently more readable without involving any substantive changes.

CHAIRMAN GRAYBILL: Section seven, sub one -- is there any discussion?

(No response)

CHAIRMAN GRAYBILL: Sub one contains (a), (b) and (c). Very well, all those in favor of section seven, sub one, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section seven, sub two.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration section seven, sub two, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, this language is what had been in just one section and we made a subsection of it.

CHAIRMAN GRAYBILL: Any discussion of section seven, sub two?

(No response)

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section eight, Mr. Clerk.

CLERK HANSON: (Reading) Section eight, Initiative and Referendum. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section eight, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, style changes. Nothing substantive altered.

CHAIRMAN GRAYBILL: Any changes in section eight to discuss?

(No response)

CHAIRMAN GRAYBILL: All in favor of section eight say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section nine.

CLERK HANSON: (Reading) Section nine, Voter Review of Local Government, containing two subsections. (End reading)

STATE PUBLISHING CO. HELENA, MONT.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section nine, subsection one, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, we changed the word, adoption, to ratification as a more precise word. You'll notice we substituted combination of units instead of -- on line sixteen -- instead of using the word jointly or joint unit on line seventeen and eighteen. We have not changed the substance.

CHAIRMAN GRAYBILL: Is there any question or debate about nine, sub one?

(No response)

CHAIRMAN GRAYBILL: All in favor of nine, sub one, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Nine, sub two.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section nine, subsection two, Style and Drafting report number eleven, it recommend the same be adopted. Mr. Chairman, very minor changes. No change in substance.

CHAIRMAN GRAYBILL: Any question about nine, sub

STATE
BLISHING CO.
HELENA, MONT.

two?

(No response)

CHAIRMAN GRAYBILL: Very well, all in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: Nine, sub two, is adopted. Now, please do not -- we'll set the Local Government book aside but please do not put it away. We are going to use it again. Now, members of the Committee, we are prepared to start on General Government number twelve, page five. Mr. Schiltz, may the Chair have a motion that Rule Twenty-Three, requiring that this be on the desks forty-eight hours before consideration on Style and Drafting's report, be waived?

DELEGATE SCHILTZ: Mr. Chairman, I move that Rule Twenty-Three be waived so that we may consider Style and Drafting report number twelve, it not having lain on the desks forty-eight hours.

CHAIRMAN GRAYBILL: All in favor of that motion say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: So ordered. Very well, will

STATE PUBLISHING CO. HELENA, MONT.

the Clerk read the title and section one of the General Government article?

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-72, Report of Committee on Style, Drafting, Transition and Submission on General Government, number twelve. Reported March 20, 1972. John M. Schiltz, chairman. Be it proposed by the General Government and Constitutional Amendment Committee that there be a new article on General Government to read as follows: Article, General Government. Section one, Separation of Powers. (End reading)

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section one, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, on line eleven we took out the words, collection of, before persons so it reads, no person or persons, thinking it means exactly the same thing. Otherwise, style changes.

CHAIRMAN GRAYBILL: Is there any discussion of General Government section one?

(No response)

CHAIRMAN GRAYBILL: All those in favor of Mr. Schiltz's motion say Aye.

DELEGATES: Aye.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: So ordered. It's adopted. Section two, Mr. Clerk.

CLERK HANSON: (Reading) Section two, Continuity of Government. (End reading)

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section two, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, we made some of the usual style changes that everybody is used to by now -- legislature for legislative assembly, such laws -- no significant changes. We had a little difficulty, just for your information, on line twenty-two. We put in the word, they, in our rearrangement. They refers to laws and we couldn't think of a better way to do it and decided that was the best way.

CHAIRMAN GRAYBILL: Any discussion or debate of section two?

(No response)

CHAIRMAN GRAYBILL: All in favor of section two say Aye.

DELEGATES: Aye.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section three, Mr. Clerk.

CLERK HANSON: (Reading) Section three, Oath of Office. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section three, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, we made no changes -- very few changes in the oath itself -- no, we didn't change the oath itself. We made some changes in the preliminary material but there's nothing that alters substance and we took out the offensive, to-wit, -- all style changes.

CHAIRMAN GRAYBILL: Any discussion of section three?

(No response)

CHAIRMAN GRAYBILL: All in favor of section three say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section four, sub one.

STATE PUBLISHING CO. HELENA, MONT.

CLERK HANSON: (Reading) Section four, Initiative, containing three subsections. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section four, subsection one, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, we made no changes in subsection one.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Mr. Chairman, I would like to amend subsection one on page two, line six, by striking prohibited by this Constitution. We consider this a style change and I'd like to be heard.

CHAIRMAN GRAYBILL: All right, that would be on -- I'm on page six. What are you on, Mr. Brown?

DELEGATE BROWN: Well, I can go to six. It would be line nine on page six.

CHAIRMAN GRAYBILL: Line nine -- and you want to say, prohibited by this Constitution -- you want to strike all of that?

DELEGATE BROWN: Yes.

CHAIRMAN GRAYBILL: And you consider that a style change?

DELEGATE BROWN: That's correct.

CHAIRMAN GRAYBILL: All right, why don't you discuss

STATE PUBLISHING CO. HELENA, MONT.

it and I'll read it.

DELEGATE BROWN: This provision is taken from our old Constitution and it prohibits local or special laws as enumerated in the old Constitution. If you go to article five, section twenty-six of the old Constitution, it sets forth all the local or special laws which cannot be enacted by initiative or by the legislative department. We thought there would be prohibitions in the Constitution against local or special laws but in reading the Legislative article it only refers that the legislature may not pass special or local laws. This conflict was brought to my attention by Mr. Mahoney, and I met with the committee and I met with Mr. Cromwell and Mr. Schiltz, and it was the sense of the committee that you cannot pass special or local laws by initiative and we would provide for the prohibition elsewhere in the Constitution. Since that has not appeared elsewhere we should strike that language so that it carries out the sense of the committee and I'm sure the sense of the delegation, so we considered it a style change.

CHAIRMAN GRAYBILL: Very well, the Chair considers it a style change. Mr. Schiltz, do you care to speak on it?

DELEGATE SCHILTZ: The Style and Drafting Committee has no opinion on that. If it's the desire of the body to take out prohibited by this Constitution, that's fine with us.

CHAIRMAN GRAYBILL: It would seem to the Chair that

STATE PUBLISHING CO. HELENA, MONT.

especially with the conjunctive -- we've got two conjunctives in there, or and and, that we'd better take out the rest of it or we may really have caused it to be very mixed up. Does anybody else want to discuss it?

(No response)

CHAIRMAN GRAYBILL: Very well, all in favor of Mr. Brown's motion to strike the words, prohibited by this Constitution, on line nine and ten on page six, of the General Government article number twelve -- so many as are in favor of Mr. Brown's motion to strike that language say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's amended by Mr. Brown's motion.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section four, subsection one, Style and Drafting report number twelve, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Is there other discussion of section four?

DELEGATE ROMNEY: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Romney.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ROMNEY: Would you please have the Clerk read that as amended?

CHAIRMAN GRAYBILL: Yes, I'll read it back. As amended it says: Initiative. One: The people may enact laws by initiative on all matters except appropriations of money and local or special laws. And it struck out the words, prohibited by this Constitution, since there was no prohibition of all those things in other parts of the Constitution. All right, now, as amended, is there further discussion. You have all heard Mr. Schiltz's motion that this section, as amended, be now adopted. All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted as amended.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section four, subsection two, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, we rearranged this subsection considerably but if you will notice the material on lines eighteen and nineteen -- or seventeen and eighteen -- we moved that up to begin the statement with it, so we didn't lose that material, and otherwise rearranged it stylistically.

CHAIRMAN GRAYBILL: Any discussion of section four,

STATE PUBLISHING CO. HELENA, MONT.

sub two?

(No response)

CHAIRMAN GRAYBILL: All in favor of section four, sub two, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section four, subsection three, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, we changed the word, once, to after for stylistic reasons. No other changes.

CHAIRMAN GRAYBILL: Sub three, any discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of section four, sub three, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Will the Clerk read section five?

CLERK HANSON: (Reading) Section five, Referendum, containing two subsections. (End reading)

STATE PUBLISHING CO. HELENA, MONT.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section five, subsection one, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, these are all style changes. There are quite a few of them. On line twenty-six, we deleted may and inserted shall, which may or may not be a substantive change, but as we understand a referendum, once it's held or had, shall is required rather than may. Otherwise, we made some of the usual style changes, like qualified electors, which was in our first article. Incidentally, before anybody says anything about it, it's a style rule that for numerals or numbers that are less than ten, you spell them out; when they are more than ten, you use the numerals, so we knew what we were doing when we kept the f-i-v-e in there for five.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: I'd like to ask Mr. Schiltz a question.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I yield.

DELEGATE HARBAUGH: On line thirty, does the terminology, legislative representative districts, pose any question in your mind as it relates to unicameral or --

DELEGATE SCHILTZ: Well, that -- I know what you're

STATE PUBLISHING CO. HELENA, MONT.

talking about. That involved considerable discussion yesterday in the Style and Drafting Committee, and we decided that if we put -- if we left legislative representative districts in as it was, there could be no doubt about it, and if we did it any differently there might be.

DELEGATE HARBAUGH: Mr. Chairman, my thought is that throughout the unicameral I believe we have referred to the legislators elected as senators, did we not? And this is -- I don't know what the solution would be.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Well, it's a very difficult solution and we decided that in both the unicameral and the bicameral articles there is a representative district that is set up and this would identify it in each of those articles.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, that was the thinking of the General Government Committee. We discussed this at great length and we felt this was the only one that would cover both sections. However, Mr. President, I would like to, with your permission, go back to the preceding subsection two of section four to call attention to the Style and Drafting Committee that in that section we have said: Each petition must contain the full text of the proposed measure. That is correct. But, then, they went on to say that each shall be signed by at least five percent or more of the

STATE PUBLISHING CO. HELENA, MONT.

qualified electors, and it's a physical impossibility, of course, to have each petition signed by five percent or more, and I feel that the wording of the committee would be more accurate.

CHAIRMAN GRAYBILL: In other words, the wording, initiative petitions shall be signed by at least five percent.

DELEGATE HABEDANK: Yes, and down below --

CHAIRMAN GRAYBILL: Indicating the whole petition, rather than each sheet of paper, which would have to get a little long.

DELEGATE HABEDANK: That's correct. And then, down below, the petitions shall be filed. In the interests of --

CHAIRMAN GRAYBILL: Where would that be?

DELEGATE HABEDANK: That would be down on line nineteen. In other words, I think it should read: Initiative petitions shall be signed by at least five percent, and then on line nineteen, petitions shall be filed with the secretary of state, rather than each or just one petition. The way it's worded now, it would indicate one petition containing all the names must be filed.

CHAIRMAN GRAYBILL: Well, the Chair will allow you and the Style and Drafting people to discuss this and if we are in agreement on what to do, we'll go back and reconsider it.

Mr. Schiltz.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SCHILTZ: I think Mr. Habedank has a good point, and I wouldn't belabor the point. I would strike each on line eleven -- I move to strike each on line eleven --

CHAIRMAN GRAYBILL: Now, wait a minute. You can't do it yet. Do you think you can do this?

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: All right, let's have a motion to reconsider section four, sub two.

DELEGATE SCHILTZ: All right, I move that we reconsider section four, sub two, for style changes.

CHAIRMAN GRAYBILL: All in favor of reconsidering section four, sub two, for style changes, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: All right, now it's reconsidered.

DELEGATE SCHILTZ: Mr. Chairman, I move to strike the word, each, on line eleven, make a capital (I) on the word, initiative, add an (s) to petition on that same line; on line nineteen, strike the word, (A), and make a capital (P) of petitions and add an (s).

CHAIRMAN GRAYBILL: All right, on line twelve, it will read: Initiative petitions -- strike each -- and go right to shall, right? Initiative petitions shall be signed by at

STATE PUBLISHING CO. HELENA, MONT.

least five percent. And then go down to line nineteen, and you are going to strike (A) and you are going to start with a capital (P) for petitions -- Petitions shall be filed -- right?

DELEGATE SCHILTZ: Right. I'm not sure you had line eleven correct, though. It would read: Initiative petitions must contain the full text --.

CHAIRMAN GRAYBILL: I see. And then you want to say: Initiative petitions shall be signed -- is that right -- or are you going to leave that each in? I see, you're making a change in a different line.

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: Mr. Habedank, what do you think of his change?

DELEGATE HABEDANK: I would have changed it differently but I think he's getting to it. I think we need to strike then, on line twelve, the other word, each, again, so it reads: Initiative petitions must contain the full text of the proposed measure, comma, shall be signed by at least five percent. In other words, we need to strike another each.

DELEGATE SCHILTZ: All right, I'll make another amendment. On line twelve, change the measure -- delete the period after measure and insert the word, and.

CHAIRMAN GRAYBILL: And strike each, right?

DELEGATE SCHILTZ: Strike each, right.

CHAIRMAN GRAYBILL: Now, if everybody is with us,

STATE PUBLISHING CO. HELENA, MONT.

they have been very careful. All right, now the Chair thinks that it now reads as follows: Section four, sub two. Capital (I) -- Initiative petitions must contain the full text of the proposed measure, comma, and -- strike everything over to the word, shall -- shall be signed by at least five percent of the qualified electors, et cetera. Then you go down to line nineteen and it would say: Petitions shall be filed with the secretary of state at least three months --. Is that what you want, or do you want the petitions? Just petitions. Now, Mr. Habedank, is that agreeable with you?

DELEGATE HABEDANK: Yes, except I think in line twenty-one it should go back to they, then.

CHAIRMAN GRAYBILL: At least three months prior to the election at which they will be voted upon, since we are not talking about many petitions, Mr. -- you don't care?

DELEGATE HABEDANK: That isn't good, either. Prior to the election at which --

DELEGATE SCHILTZ: That's all right.

DELEGATE HABEDANK: -- they will be voted upon? You wouldn't vote upon it.

CHAIRMAN GRAYBILL: The matter?

DELEGATE SCHILTZ: The matter --

DELEGATE HABEDANK: I prefer the matter -- it would make more sense.

CHAIRMAN GRAYBILL: At which the matter will be

STATE PUBLISHING CO. HELENA, MONT.

voted upon? On line twenty-one, put in, the matter? All right, now section four, sub two, reads: Initiative petitions must contain the full text of the proposed measure, comma, and shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the matter will be voted upon.

DELEGATE SCHILTZ: Couldn't we say measure? That's the previous word.

CHAIRMAN GRAYBILL: The measure will be voted upon?

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: At which the measure --

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: -- will be voted upon.

Mr. Habedank.

DELEGATE HABEDANK: Would you consider, as long as you put the comma after the word, measure, striking the word, and? It would then read: Initiative petitions must contain the full text of the proposed measure, comma, shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts -- then you have your and --

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: O.K. We have striken and on line twelve. Mr. Schiltz, you don't know how happy it makes the rest of us to be involved in Style and Drafting for a change.

DELEGATE SCHILTZ: You may all come to the meetings.

CHAIRMAN GRAYBILL: All right. Is that all right, Mr. Habedank?

DELEGATE HABEDANK: Yes. Thank you very much.

CHAIRMAN GRAYBILL: All right. Does anyone want that re-read?

DELEGATES: Yes.

CHAIRMAN GRAYBILL: Section four, sub two. Initiative petitions must contain the full text of the proposed measure, comma, shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts, and the total number of signers must be at least five percent of the total qualified electors of the state, period. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon, period. Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of the new language say Aye.

DELEGATES: Aye.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted as amended.

DELEGATE SCHILTZ: Is it adopted or have we just adopted the language?

CHAIRMAN GRAYBILL: All right, we've just adopted the language. Now, move it as amended, Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section four, subsection two, it recommend the same be -- Style and Drafting report number twelve, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor of the motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section four, sub three, Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I previously moved section four, sub three, noting that we had only changed one word.

CHAIRMAN GRAYBILL: All right, I guess we were down on section five.

DELEGATE SCHILTZ: No, we haven't passed four, sub

STATE PUBLISHING CO. HELENA, MONT.

three. I just moved it and Mr. Habedank wanted --

CHAIRMAN GRAYBILL: I see.

DELEGATE SCHILTZ: O.K., I guess we did.

CHAIRMAN GRAYBILL: I think sub three is adopted, isn't that right?

DELEGATE SCHILTZ: O.K.

CHAIRMAN GRAYBILL: And we're on section five, sub one, which I think you had better move again.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section five, subsection one, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, I guess I did. I talked about the numerals and so on. O.K., no major style -- no major changes, not even any major style changes. Oh, I did note that we changed may to shall be and I explained why.

CHAIRMAN GRAYBILL: Any discussion of section five, sub one?

(No response)

CHAIRMAN GRAYBILL: All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section five, sub two.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section five, subsection two, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, the committee will note here that we have made some style changes. We put the word, law, in here -- or, act in for law, because in section one they have referred to an act and we wanted one word throughout. And, then, one other place we changed bill to act. I guess that was in the previous section.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I think we have the same change in subsection two, line nine, that we had in subsection two, section four. Petitions should be filed, not just one petition. In other words, that particular word should read, petitions. Line nine.

CHAIRMAN GRAYBILL: I see it.

Mr. Schiltz.

DELEGATE SCHILTZ: No problem. I move that -- Mr. Chairman, I move that line -- no, let me see -- that section five, subsection two, Style and Drafting report number twelve, line nine, that the word, petition, be made plural by adding an (s).

CHAIRMAN GRAYBILL: Very well, the motion is to make the word, petition, plural. All in favor say Aye.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: That's adopted. Now, do you want to remove five, sub two?

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section five, subsection two, style and drafting report number twelve, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor of five, sub two, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted as amended. Section six.

CLERK HANSON: (Reading) Section six, Elections. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section six, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, the committee will note that we completely rewrote this but it's

STATE PUBLISHING CO. HELENA, MONT.

very simple. We put it in the active voice as against the passive voice.

CHAIRMAN GRAYBILL: Is there any discussion of section six?

Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman, I think in your rewriting, you cut out the neccessary word. Mr. Schiltz, what do you feel, in line twenty, after the word, referendum, we put in measures -- in other words, what are the people voting on? Am I wrong in my assumption?

DELEGATE SCHILTZ: Well, I don't think it's necessary but if you want to make a motion, I won't resist it. I think we have used measures in the beginning. It wasn't in the original language.

DELEGATE HARLOW: In six --

DELEGATE SCHILTZ: In six we have all measures -- I see what you mean.

DELEGATE HARLOW: Yes.

DELEGATE SCHILTZ: Well, if you want to make the motion, go ahead.

DELEGATE HARLOW: Well, Mr. Chairman, I move that we amend the style and drafting report on General Government in section six, line twenty, after the word, referendum, by inserting the word, measures.

CHAIRMAN GRAYBILL: Very well, Mr. Harlow proposes

STATE PUBLISHING CO. HELENA, MONT.

that we add the word, measures, so it reads: The people shall vote on initiative and referendum measures at the general election unless the legislature orders a special election. All in favor of Mr. Harlow's amendment say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Mr. Schiltz, do you want to put the --

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section six, Style and Drafting report number twelve, it recommend the same be adopted, as amended.

CHAIRMAN GRAYBILL: Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: Section six is adopted as amended. Section seven.

CLERK HANSON: (Reading) Section seven, Number of Electors. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when

STATE PUBLISHING CO. HELENA, MONT.

this committee does arise and report, after having had under consideration section seven, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, we completely rewrote this without changing anything substantive, for two reasons. We put it into the active voice as opposed to the passive, and we adopted the language that we had used in another article, and I can't tell you right now exactly what article that was.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. Chairman, I feel that the committee did change it in line thirty when they left out the words, the office of, following the word, for, and I would move that they be reinstated -- votes cast for the office of governor.

DELEGATE SCHILTZ: I agree to that, Mr. Chairman.

CHAIRMAN GRAYBILL: In other words, you add the vote for both the winner and the loser to get the total number of votes. All right, in line thirty, Mr. Habedank has proposed a motion to add the words, the office of, before the word, governor, so that it reads: -- shall be determined by the number of votes cast for the office of governor in the preceding general election. So many as shall be in favor of Mr. Habedank's amendment say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: The amendment is adopted. Mr. Schiltz, do you want to put that again?

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section seven, Style and Drafting report number twelve, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of section seven as amended, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted as amended. Section eight on page eight.

CLERK HANSON: (Reading) Section eight, Prohibition. (End reading)

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section eight, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, we put the Roman numeral, thirteen, in on line three because we

STATE PUBLISHING CO. HELENA, MONT.

have now worked out a schedule of where the articles will fall and so we supplied that. Otherwise, style changes.

CHAIRMAN GRAYBILL: Any further discussion of section eight?

(No response)

CHAIRMAN GRAYBILL: All in favor of section eight, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Section nine.

CLERK HANSON: (Reading) Section nine, Recall. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section nine, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, as we have been doing, we inserted local government units instead of its political subdivisions; otherwise, no change of any significance.

CHAIRMAN GRAYBILL: All in favor of section nine say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Section ten.

CLERK HANSON: (Reading) Section ten, Gambling. (End reading).

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section ten, Style and Drafting report number twelve, it recommend the same be adopted. You will note here that we have two section tens. They both will be included in the Constitution and there will be a choice to the voters, as was required by the Committee of the Whole. The adoption schedule, when we finally put it together on the entire Constitution, will provide for the deletion of one of them when the time comes.

CHAIRMAN GRAYBILL: Is there any question about either section ten?

(No response)

CHAIRMAN GRAYBILL: All right. All in favor of the first section ten, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. The second section ten, Aye.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Both section tens are adopted. Section eleven.

CLERK HANSON: (Reading) Section eleven, Boundaries. (End reading)

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section eleven, Style and Drafting report number twelve, it recommend the same be adopted. Mr. Chairman, we have a rather major substantive change here on line twenty-five. We made Bitter Root into two words, and on that same line, we edited the poet, wherever he's from, by putting a (t) in front of hence because there can be no doubt that thence was intended rather than hence.

CHAIRMAN GRAYBILL: All in favor of section eleven say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Chair is not in doubt.

(Laughter)

DELEGATE (UNIDENTIFIED): Division.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: You want a division? All right, all in favor of section eleven say Aye, and opposed, No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does every Delegate know what they are voting on?

(Laughter)

CHAIRMAN GRAYBILL: You're voting whether to change Bitter Root to two words or not. All in favor vote Aye and opposed, No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Close the ballot. Sixty having voted to sustain Mr. Romney and twenty having voted against him, we are going to split Bitter Root. It's not a roll call, John, it's just a division. Very well, section eleven is adopted.

Mr. McNeil was up first.

DELEGATE McNEIL: Mr. Chairman, I move to reconsider section one for a style change. Mr. Chairman, if my motion to reconsider section one is passed, I would change the word, among, back to into. When I first read this, I didn't catch the distinction until we got -- after -- to the committee comments on page nine. I see the committee comments again use the word, into. They say, the power of government is one whole which is divided into three parts. The language in our

STATE PUBLISHING CO. HELENA, MONT.

present Constitution, which was the intent of the committee to retain, says the power is divided into three parts, and, of course, our present Constitution reads that way. So, if my motion to reconsider is affirmed, I would move to delete the word, among, and restore the word, into, on line nine, page five.

CHAIRMAN GRAYBILL: Mr. Harper, do you want to speak on the motion to reconsider?

DELEGATE HARPER: It seems to me you divide power among persons, rather than into them.

CHAIRMAN GRAYBILL: I think that's -- you're on the issue, Mr. Harper.

DELEGATE HARPER: I already sneaked it in.

CHAIRMAN GRAYBILL: Well. All right, the motion is -- Mr. McNeil, did you vote on the prevailing side on section one when it was adopted?

DELEGATE McNEIL: Yes.

CHAIRMAN GRAYBILL: How did that happen?

DELEGATE McNEIL: I didn't question it until I got to their comments.

CHAIRMAN GRAYBILL: Very well, Mr. McNeil has a motion to reconsider section one of the General Government article. All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it and it will be reconsidered. Mr. McNeil, do you want to state your motion?

DELEGATE McNEIL: Mr. Chairman, I move to restore the language of the majority committee on line nine, page five, of Style and Drafting's report, by deleting the word, among, and returning it to the word, into.

Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, he wants to change the word on line nine back to into and away from among. He wants among to read into -- divided into three distinct branches, rather than divided among three distinct branches.

Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, I don't want there to be any doubt that there was any intention to change our separation of powers doctrine. The change which Delegate Harper referred to refers to English language construction, I guess; however, the language of the present Constitution, which it was the intent of the committee to retain, uses the word, into. That's the way it was passed by the Committee of the Whole, and I note, in explaining that change, Style and Drafting, on page nine, says: The changes in language make plain that the power of government is one whole which is divided into three parts. For that reason, I would submit that the change would be substantive if it is not restored to the former

STATE PUBLISHING CO. HELENA, MONT.

language.

CHAIRMAN GRAYBILL: Anybody else want to discuss this?

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, members of the committee, I think that we are eminently correct on this and I think Mr. Harper is on target, and I would only observe that insofar as the comments are concerned that we would like you to do what we do and not what we say. I'll admit that we did say into back there, but it seems to me that among is grammatically and semantically correct in this case.

CHAIRMAN GRAYBILL: Mr. Etchart.

DELEGATE ETCHART: I would support Mr. McNeil on this. I really think the committee wanted the word, into, there instead of among, and we would like to see you adopt the word, into.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Poor Jack Schiltz has to fight this alone, time after time. The committee wants among.

DELEGATE BLAYLOCK: Mr. President, I also support among. Let's have it grammatically correct.

CHAIRMAN GRAYBILL: Now, the Chair wants to observe that you're all going to have a chance to tell us which you prefer in about one minute, so if you've got anything except to tell how you're going to vote, say it.

STATE PUBLISHING CO. HELENA, MONT.

Mr. Choate.

DELEGATE CHOATE: That's just what I was going to say. I concur with our chairman of our committee. We would prefer to have it remain as the majority report.

CHAIRMAN GRAYBILL: All right, the issue is clear cut. It's between among and into. Mr. McNeil, you may close.

DELEGATE McNEIL: Mr. Chairman, I submit that there are two committees here -- one is Style and Drafting, arguing for a style change; the substantive committee has stated they want the word, into, retained. I submit that if we change that we are treading in an area where somebody at some future time is going to argue that a substantive change was intended, and for that reason, at this point in our proceedings in style and drafting, where there is some doubt, we ought to maintain or uphold the substantive committee and I ask for a roll call vote.

CHAIRMAN GRAYBILL: Very well, so many as shall be in favor of Mr. McNeil's motion which is to go back to the word, into, and strike among, where it says, is divided into three distinct branches, vote Aye. So many as are opposed, vote No.

(Inaudible question from the floor by unidentified Delegate whose microphone was not turned on.)

CHAIRMAN GRAYBILL: No, we have already reconsidered it. This is on the issue. This is on the issue. He moved

STATE PUBLISHING CO. HELENA, MONT.

and the reconsideration was adopted by a voice vote. The ballot is open, and if you want to vote with Style and Drafting, you will vote No, and if you want to vote with General Government, you vote Yes. Anybody want to change their vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	-	Aye	Bugbee	-	Nay
Anderson, J. H.	-	Aye	Burkhardt	-	Nay
Anderson, O.	-	Aye	Cain	-	Nay
Arbanas	-	Absent	Campbell	-	Absent
Arness	-	Nay	Cate	-	Absent
Aronow	-	Nay	Champoux	-	Absent
Artz	-	Aye	Choate	-	Aye
Ask	-	Aye	Conover	-	Aye
Babcock	-	Aye	Cross	-	Nay
Barnard	-	Aye	Dahood	-	Absent
Bates	-	Aye	Davis	-	Excused
Belcher	-	Aye	Delaney	-	Absent
Berg	-	Nay	Driscoll	-	Aye
Berthelson	-	Nay	Drum	-	Absent
Blaylock	-	Nay	Eck	-	Nay
Blend	-	Nay	Erdmann	-	Aye
Bowman	-	Aye	Eskildsen	-	Aye
Brazier	-	Aye	Etchart	-	Aye
Brown	-	Aye	Felt	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

1	Foster	-	Aye	McCarvel	-	Aye
2	Furlong	-	Nay	McDonough	-	Absent
3	Garlington	-	Absent	McKeon	-	Absent
4	Gysler	-	Aye	McNeil	-	Aye
5	Habedank	-	Aye	Melvin	-	Aye
6	Hanson, R.S.	-	Aye	Monroe	-	Nay
7	Hanson, R.	-	Aye	Murray	-	Excused
8	Harbaugh	-	Nay	Noble	-	Aye
9	Harlow	-	Nay	Nutting	-	Excused
10	Harper	-	Nay	Payne	-	Nay
11	Harrington	-	Nay	Pemberton	-	Aye
12	Heliker	-	Aye	Rebal	-	Aye
13	Holland	-	Absent	Reichert	-	Nay
14	Jacobsen	-	Aye	Robinson	-	Nay
15	James	-	Aye	Roeder	-	Nay
16	Johnson	-	Aye	Rollins	-	Aye
17	Joyce	-	Nay	Romney	-	Aye
18	Kamhoot	-	Aye	Rygg	-	Aye
19	Kelleher	-	Nay	Scanlin	-	Absent
20	Leuthold	-	Nay	Schiltz	-	Nay
21	Loendorf	-	Nay	Siderius	-	Nay
22	Lorello	-	Aye	Simon	-	Aye
23	Mahoney	-	Absent	Skari	-	Aye
24	Mansfield	-	Aye	Sparks	-	Aye
25	Martin	-	Aye	Speer	-	Nay

STATE
PUBLISHING CO.
HELENA, MONT.

Studer	-	Aye	Wagner	-	Aye
Sullivan	-	Aye	Ward	-	Aye
Swanberg	-	Aye	Warden	-	Aye
Toole	-	Aye	Wilson	-	Aye
Van Buskirk	-	Aye	Woodmansey	-	Aye
Vermillion	-	Aye	Mr. Chairman	-	Aye

CLERK HANSON: Mr. Chairman, fifty-five Delegates voting Aye, twenty-eight voting No.

CHAIRMAN GRAYBILL: Fifty-five having voted Aye and twenty-eight No, we will go back to the word, into -- into three branches. Mr. Schiltz, do you want to move one as amended?

DELEGATE SCHILTZ: No, that's what I was going to say. It would hurt me terribly to move this as amended.

(Laughter)

CHAIRMAN GRAYBILL: Mr. Etchart, would you like to move one as amended?

DELEGATE ETCHART: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section one, Style and Drafting report number eleven, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor of that motion say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted as amended. Now, Mr. Eskildsen, we'd like to rise and finally report.

DELEGATE ESKILDSEN: Mr. Chairman, I move that the committee rise and finally report.

CHAIRMAN GRAYBILL: The motion is to rise and report. All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: So ordered.

(Proceedings revert to Convention. President Graybill in Chair.)

PRESIDENT GRAYBILL: Will the Clerk please read the committee report?

CLERK HANSON: (Reading) March 20, 1972. Mr. President, we, your Committee of the Whole, having had under consideration business on general orders,recommend as follows: That the Committee rise and finally report. Signed, Graybill, chairman. (End reading)

PRESIDENT GRAYBILL: Anybody want the committee report read fully?

DELEGATES: No.

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the

STATE PUBLISHING CO. HELENA, MONT.

adoption of the committee of the whole report.

PRESIDENT GRAYBILL: The motion is to adopt the committee of the whole report. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: It's adopted. Now, without objection, we'll be on Order of Business Number Five.

Mr. Eskildsen.

DELEGATE ESKILDSEN: I think we should move them to Order of Business Number Five so we can vote on them --

PRESIDENT GRAYBILL: All right.

DELEGATE ESKILDSEN: I think we should be on Order of Business Number Seven.

PRESIDENT GRAYBILL: All right, we'll be on Order of Business Number Seven, then.

DELEGATE ESKILDSEN: I move that we place General Government number twelve to Order of Business Number Five and--

PRESIDENT GRAYBILL: Local Government number eleven.

DELEGATE ESKILDSEN: -- Local Government number eleven to Order of Business Number Five.

PRESIDENT GRAYBILL: All in favor of that motion say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

DELEGATE ESKILDSEN: Mr. President.

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Without objection, may we be on Order of Business Number Five?

PRESIDENT GRAYBILL: Without objection, we will be on Order of Business Number Five. On Order of Business Number Five, we will take up Local Government number nine first. Ladies and gentlemen, members of the Convention, if you'll take your Style and Drafting report and instead of turning to page five, if you'll turn to page one, it will be easy to follow along on the clean text, and where there are changes, I will call it to your attention. There happen to be no changes at all in the Local Government article. Very well, we are on Order of Business Number Five, final adoption.

Mr. Harbaugh, for what purpose do you rise?

DELEGATE HARBAUGH: Well, a question or a point of order. Don't we have to suspend rules to be on final consideration?

PRESIDENT GRAYBILL: No, final consideration has no time limit, so the matter having been put on it, we can go immediately into it. Ordinarily we would reprint it, but to save us the reprinting and since we have clean copy -- well, to save us the reprinting and get it out of the way so that

STATE PUBLISHING CO. HELENA, MONT.

Style and Drafting can continue now with putting together the whole Constitution, why, we'll go ahead. It's only on Order of Business Number Ten that we have the time limits. Very well, will the Clerk read the title and section one of the Local Government article number eleven?

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-1972, Local Government number eleven. Be it proposed by the Local Government Committee that there be a new article on Local Government to read as follows: Article, Local Government. Section one, Definition. (End reading)

Mr. President.

PRESIDENT GRAYBILL: Now, this time we vote by voting machines. We read you the section only and then you have to decide. All right, the vote is on section one, the definition of the Local Government article, article eleven -- or, proposal number eleven. So many as are in favor of section one, vote Aye on the voting machine. Opposed, vote No. Have all the Delegates voted?

UNIDENTIFIED DELEGATE: No.

PRESIDENT GRAYBILL: Any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim - Absent	Anderson, O. - Aye
Anderson, J.H. - Aye	Arbanas - Absent

STATE PUBLISHING CO. HELENA, MONT.

1	Arness	-	Aye	Davis	-	Excused
2	Aronow	-	Aye	Delaney	-	Absent
3	Artz	-	Aye	Driscoll	-	Aye
4	Ask	-	Aye	Drum	-	Aye
5	Babcock	-	Aye	Eck	-	Aye
6	Barnard	-	Aye	Erdmann	-	Aye
7	Bates	-	Aye	Eskildsen	-	Aye
8	Belcher	-	Aye	Etchart	-	Aye
9	Berg	-	Aye	Felt	-	Absent
10	Berthelson	-	Aye	Foster	-	Aye
11	Blaylock	-	Aye	Furlong	-	Aye
12	Blend	-	Aye	Garlington	-	Absent
13	Bowman	-	Aye	Gysler	-	Aye
14	Brazier	-	Aye	Habedank	-	Aye
15	Brown	-	Aye	Hanson, R.S.	-	Aye
16	Bugbee	-	Aye	Hanson, R.	-	Aye
17	Burkhardt	-	Aye	Harbaugh	-	Aye
18	Cain	-	Aye	Harlow	-	Aye
19	Campbell	-	Absent	Harper	-	Aye
20	Cate	-	Aye	Harrington	-	Aye
21	Champoux	-	Absent	Heliker	-	Aye
22	Choate	-	Aye	Holland	-	Absent
23	Conover	-	Aye	Jacobsen	-	Aye
24	Cross	-	Aye	James	-	Aye
25	Dahood	-	Absent	Johnson	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.

Joyce	-	Aye	Roeder	-	Absent
Kamhoot	-	Aye	Rollins	-	Aye
Kelleher	-	Absent	Romney	-	Aye
Leuthold	-	Aye	Rygg	-	Aye
Loendorf	-	Aye	Scanlin	-	Aye
Lorello	-	Aye	Schiltz	-	Aye
Mahoney	-	Absent	Siderius	-	Aye
Mansfield	-	Aye	Simon	-	Aye
Martin	-	Aye	Skari	-	Aye
McCarvel	-	Aye	Sparks	-	Aye
McDonough	-	Aye	Speer	-	Aye
McKeon	-	Aye	Studer	-	Aye
McNeil	-	Aye	Sullivan	-	Aye
Melvin	-	Aye	Swanberg	-	Aye
Monroe	-	Aye	Toole	-	Aye
Murray	-	Excused	Van Buskirk	-	Aye
Noble	-	Aye	Vermillion	-	Aye
Nutting	-	Excused	Wagner	-	Absent
Payne	-	Aye	Ward	-	Aye
Pemberton	-	Aye	Warden	-	Aye
Rebal	-	Aye	Wilson	-	Aye
Reichert	-	Aye	Woodmansey	-	Aye
Robinson	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-four Delegates voting Aye, no Delegates voting No.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Very well, section one is adopted. Section two, Mr. Clerk.

CLERK HANSON: (Reading) Section two, Counties. (End reading)

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section two, Counties, vote Aye on the voting machines; opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the vote.

Aasheim	-	Absent	Berg	-	Aye
Anderson, J.H.	-	Aye	Berthelson	-	Aye
Anderson, O.	-	Aye	Blaylock	-	Aye
Arbanas	-	Absent	Blend	-	Absent
Arness	-	Aye	Bowman	-	Nay
Aronow	-	Aye	Brazier	-	Aye
Artz	-	Aye	Brown	-	Aye
Ask	-	Aye	Bugbee	-	Aye
Babcock	-	Aye	Burkhardt	-	Aye
Barnard	-	Aye	Cain	-	Aye
Bates	-	Aye	Campbell	-	Absent
Belcher	-	Aye	Cate	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Champoux	-	Absent	Heliker	-	Aye
Choate	-	Aye	Holland	-	Absent
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Aye	Johnson	-	Aye
Davis	-	Excused	Joyce	-	Aye
Delaney	-	Absent	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Absent
Drum	-	Aye	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Aye
Eskildsen	-	Aye	Mahoney	-	Absent
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Absent
Garlington	-	Absent	McKeon	-	Aye
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R.S.	-	Aye	Monroe	-	Absent
Hanson, R.	-	Aye	Murray	-	Excused
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Excused
Harper	-	Aye	Payne	-	Nay
Harrington	-	Aye	Pemberton	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Rebal	-	Aye	Speer	-	Aye
Reichert	-	Aye	Studer	-	Aye
Robinson	-	Aye	Sullivan	-	Aye
Roeder	-	Aye	Swanberg	-	Aye
Rollins	-	Absent	Toole	-	Aye
Romney	-	Aye	Van Buskirk	-	Aye
Rygg	-	Aye	Vermillion	-	Aye
Scanlin	-	Aye	Wagner	-	Absent
Schiltz	-	Absent	Ward	-	Aye
Siderius	-	Aye	Warden	-	Aye
Simon	-	Aye	Wilson	-	Aye
Skari	-	Aye	Woodmansey	-	Aye
Sparks	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, seventy-nine voting Aye, two Delegates voting No.

PRESIDENT GRAYBILL: Very well, seventy-nine voting Aye, two No, section two is adopted. Section three.

CLERK HANSON: Section three, Forms of Government, containing two subsections.

Mr. President.

PRESIDENT GRAYBILL: Section three has two subsections. All in favor vote Aye; opposed, No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change

STATE PUBLISHING CO. HELENA, MONT.

his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Absent	Campbell	-	Absent
Anderson, J. H.	-	Aye	Cate	-	Aye
Anderson, O.	-	Aye	Champoux	-	Absent
Arbanas	-	Absent	Choate	-	Aye
Arness	-	Aye	Conover	-	Aye
Aronow	-	Aye	Cross	-	Aye
Artz	-	Aye	Dahood	-	Aye
Ask	-	Aye	Davis	-	Excused
Babcock	-	Aye	Delaney	-	Absent
Barnard	-	Aye	Driscoll	-	Aye
Bates	-	Aye	Drum	-	Aye
Belcher	-	Aye	Eck	-	Aye
Berg	-	Aye	Erdmann	-	Aye
Berthelson	-	Aye	Eskildsen	-	Aye
Blaylock	-	Aye	Etchart	-	Aye
Blend	-	Aye	Felt	-	Absent
Bowman	-	Aye	Foster	-	Aye
Brazier	-	Aye	Furlong	-	Aye
Brown	-	Aye	Garlington	-	Absent
Bugbee	-	Aye	Gysler	-	Aye
Burkhardt	-	Aye	Habedank	-	Aye
Cain	-	Absent	Hanson, R.S.	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Hanson, R.	-	Aye	Murray	-	Excused
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Excused
Harper	-	Aye	Payne	-	Nay
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Aye
Holland	-	Absent	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Absent	Scanlin	-	Aye
Leuthold	-	Aye	Schiltz	-	Absent
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Absent	Skari	-	Aye
Mansfield	-	Aye	Sparks	-	Nay
Martin	-	Aye	Speer	-	Aye
McCarvel	-	Aye	Studer	-	Aye
McDonough	-	Aye	Sullivan	-	Aye
McKeon	-	Aye	Swanberg	-	Absent
McNeil	-	Aye	Toole	-	Aye
Melvin	-	Aye	Van Buskirk	-	Aye
Monroe	-	Aye	Vermillion	-	Aye

STATE PUBLISHING CO. HELENA, MONT. 3

Wagner	-	Absent	Wilson	-	Aye
Ward	-	Aye	Woodmansey	-	Aye
Warden	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-one Delegates voting Aye, two voting No.

PRESIDENT GRAYBILL: Very well, section three is adopted. Section four, containing two subsections.

CLERK HANSON: Section four, General Powers.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section four and two subsections, vote Aye; opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Absent	Babcock	-	Aye
Anderson, J. H.	-	Aye	Barnard	-	Aye
Anderson, O.	-	Aye	Bates	-	Absent
Arbanas	-	Absent	Belcher	-	Aye
Arness	-	Absent	Berg	-	Nay
Aronow	-	Aye	Berthelson	-	Aye
Artz	-	Aye	Blaylock	-	Aye
Ask	-	Aye	Blend	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Bowman	-	Nay	Gysler	-	Aye
Brazier	-	Aye	Habedank	-	Aye
Brown	-	Aye	Hanson, R.S.	-	Aye
Bugbee	-	Aye	Hanson, R.	-	Aye
Burkhardt	-	Aye	Harbaugh	-	Aye
Cain	-	Aye	Harlow,	-	Aye
Campbell	-	Absent	Harper	-	Aye
Cate	-	Aye	Harrington	-	Aye
Champoux	-	Absent	Heliker	-	Aye
Choate	-	Aye	Holland	-	Absent
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Aye	Johnson	-	Aye
Davis	-	Excused	Joyce	-	Aye
Delaney	-	Absent	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Absent
Drum	-	Aye	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Aye
Eskildsen	-	Aye	Mahoney	-	Absent
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Absent	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Absent
Garlington	-	Absent	McKeon	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

McNeil	-	Aye	Siderius	-	Aye
Melvin	-	Aye	Simon	-	Aye
Monroe	-	Aye	Skari	-	Aye
Murray	-	Excused	Sparks	-	Nay
Noble	-	Aye	Speer	-	Aye
Nutting	-	Excused	Studer	-	Aye
Payne	-	Nay	Sullivan	-	Aye
Pemberton	-	Aye	Swanberg	-	Absent
Rebal	-	Aye	Toole	-	Nay
Reichert	-	Aye	Van Buskirk	-	Aye
Robinson	-	Nay	Vermillion	-	Aye
Roeder	-	Aye	Wagner	-	Absent
Rollins	-	Aye	Ward	-	Aye
Romney	-	Aye	Warden	-	Aye
Rygg	-	Aye	Wilson	-	Aye
Scanlin	-	Aye	Woodmansey	-	Aye
Schiltz	-	Absent	Mr. President	-	Aye

CLERK HANSON: Mr. President, seventy-five Delegates voting Aye, six voting No.

PRESIDENT GRAYBILL: Very well, section four is adopted. Section five.

CLERK HANSON: Section five, Self-Government Charters, containing three subsections.

Mr. President.

PRESIDENT GRAYBILL: Section five. So many as are

STATE PUBLISHING CO. HELENA, MONT.

in favor of section five and three subsections, vote Aye, and so many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Absent	Brown	-	Aye
Anderson, J.H.	-	Aye	Bugbee	-	Aye
Anderson, O.	-	Aye	Burkhardt	-	Aye
Arbanas	-	Absent	Cain	-	Aye
Arness	-	Aye	Campbell	-	Absent
Aronow	-	Aye	Cate	-	Aye
Artz	-	Aye	Champoux	-	Absent
Ask	-	Aye	Choate	-	Aye
Babcock	-	Aye	Conover	-	Aye
Barnard	-	Aye	Cross	-	Aye
Bates	-	Aye	Dahood	-	Aye
Belcher	-	Aye	Davis	-	Excused
Berg	-	Aye	Delaney	-	Absent
Berthelson	-	Aye	Driscoll	-	Aye
Blaylock	-	Aye	Drum	-	Aye
Blend	-	Aye	Eck	-	Aye
Bowman	-	Aye	Erdmann	-	Aye
Brazier	-	Aye	Eskildsen	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Etchart	-	Aye	Mansfield	-	Aye
2	Felt	-	Absent	Martin	-	Aye
3	Foster	-	Aye	McCarvel	-	Aye
4	Furlong	-	Aye	McDonough	-	Aye
5	Garlington	-	Absent	McKeon	-	Aye
6	Gysler	-	Aye	McNeil	-	Aye
7	Habedank	-	Aye	Melvin	-	Aye
8	Hanson, R.S.	-	Aye	Monroe	-	Aye
9	Hanson, R.	-	Aye	Murray	-	Excused
10	Harbaugh	-	Aye	Noble	-	Aye
11	Harlow	-	Aye	Nutting	-	Excused
12	Harper	-	Aye	Payne	-	Aye
13	Harrington	-	Aye	Pemberton	-	Aye
14	Heliker	-	Aye	Rebal	-	Aye
15	Holland	-	Absent	Reichert	-	Aye
16	Jacobsen	-	Aye	Robinson	-	Aye
17	James	-	Aye	Roeder	-	Aye
18	Johnson	-	Aye	Rollins	-	Aye
19	Joyce	-	Aye	Romney	-	Nay
20	Kamhoot	-	Aye	Rygg	-	Aye
21	Kelleher	-	Absent	Scanlin	-	Aye
22	Leuthold	-	Aye	Schiltz	-	Absent
23	Loendorf	-	Aye	Siderius	-	Aye
24	Lorello	-	Aye	Simon	-	Aye
25	Mahoney	-	Absent	Skari	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

Sparks	-	Aye	Vermillion	-	Aye
Speer	-	Aye	Wagner	-	Absent
Studer	-	Aye	Ward	-	Aye
Sullivan	-	Aye	Warden	-	Aye
Swanberg	-	Aye	Wilson	-	Absent
Toole	-	Aye	Woodmansey	-	Aye
Van Buskirk	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-three Delegates voting Aye, one voting No.

PRESIDENT GRAYBILL: Eighty-three Delegates voting Aye and one No, section five is adopted. Section six.

CLERK HANSON: Section six, Self-Government Powers.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section six, vote Aye; so many as shall be opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Absent	Arness	-	Aye
Anderson, J. H.	-	Aye	Aronow	-	Aye
Anderson, O.	-	Aye	Artz	-	Aye
Arbanas	-	Absent	Ask	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Babcock	-	Aye	Eck	-	Aye
2	Barnard	-	Aye	Erdmann	-	Aye
3	Bates	-	Aye	Eskildsen	-	Aye
4	Belcher	-	Aye	Etchart	-	Aye
5	Berg	-	Aye	Felt	-	Absent
6	Berthelson	-	Aye	Foster	-	Aye
7	Blaylock	-	Aye	Furlong	-	Aye
8	Blend	-	Aye	Garlington	-	Absent
9	Bowman	-	Aye	Geysler	-	Aye
10	Brazier	-	Aye	Habedank	-	Aye
11	Brown	-	Aye	Hanson, R.S.	-	Aye
12	Bugbee	-	Aye	Hanson, R.	-	Aye
13	Burkhardt	-	Aye	Harbaugh	-	Aye
14	Cain	-	Aye	Harlow	-	Aye
15	Campbell	-	Absent	Harper	-	Aye
16	Cate	-	Aye	Harrington	-	Aye
17	Champoux	-	Absent	Heliker	-	Aye
18	Choate	-	Aye	Holland	-	Absent
19	Conover	-	Aye	Jacobsen	-	Aye
20	Cross	-	Aye	James	-	Aye
21	Dahood	-	Aye	Johnson	-	Aye
22	Davis	-	Excused	Joyce	-	Aye
23	Delaney	-	Absent	Kamhoot	-	Aye
24	Driscoll	-	Aye	Kelleher	-	Absent
25	Drum	-	Aye	Leuthold	-	Aye

STATE
BLISHING CO.
ELENA, MONT.
3

Loendorf	-	Aye	Romney	-	Aye
Lorello	-	Aye	Rygg	-	Aye
Mahoney	-	Absent	Scanlin	-	Aye
Mansfield	-	Aye	Schiltz	-	Absent
Martin	-	Aye	Siderius	-	Aye
McCarvel	-	Aye	Simon	-	Aye
McDonough	-	Aye	Skari	-	Aye
McKeon	-	Aye	Sparks	-	Aye
McNeil	-	Aye	Speer	-	Aye
Mason	-	Aye	Studer	-	Aye
Monroe	-	Aye	Sullivan	-	Aye
Murray	-	Excused	Swanberg	-	Aye
Noble	-	Aye	Toole	-	Aye
Nutting	-	Excused	Van Buskirk	-	Aye
Payne	-	Aye	Vermillion	-	Aye
Pemberton	-	Aye	Wagner	-	Absent
Rebal	-	Aye	Ward	-	Aye
Reichert	-	Aye	Warden	-	Aye
Robinson	-	Aye	Wilson	-	Aye
Roeder	-	Aye	Woodmansey	-	Aye
Rollins	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-five Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Very well, section six is adopted. Section seven.

STATE PUBLISHING CO. HELENA, MONT.

CLERK HANSON: Section seven, Intergovernmental Cooperation, containing two subsections.

Mr. Chairman.

PRESIDENT GRAYBILL: So many as shall be in favor of section seven and its two subdivisions, vote Aye. So many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Absent	Blaylock	-	Aye
Anderson, J.H.	-	Aye	Blend	-	Aye
Anderson, O.	-	Aye	Bowman	-	Aye
Arbanas	-	Absent	Brazier	-	Aye
Arness	-	Aye	Brown	-	Absent
Aronow	-	Aye	Bugbee	-	Aye
Artz	-	Aye	Burkhardt	-	Aye
Ask	-	Aye	Cain	-	Aye
Babcock	-	Aye	Campbell	-	Absent
Barnard	-	Aye	Cate	-	Aye
Bates	-	Aye	Champoux	-	Absent
Belcher	-	Aye	Choate	-	Aye
Berg	-	Aye	Conover	-	Aye
Berthelson	-	Aye	Cross	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Dahood	-	Aye	Johnson	-	Aye
2	Davis	-	Excused	Joyce	-	Aye
3	Delaney	-	Absent	Kamhoot	-	Aye
4	Driscoll	-	Aye	Kelleher	-	Aye
5	Drum	-	Aye	Leuthold	-	Aye
6	Eck	-	Aye	Loendorf	-	Aye
7	Erdmann	-	Aye	Lorello	-	Aye
8	Eskildsen	-	Aye	Mahoney	-	Absent
9	Etchart	-	Aye	Mansfield	-	Aye
10	Felt	-	Absent	Martin	-	Aye
11	Foster	-	Aye	McCarvel	-	Aye
12	Furlong	-	Aye	McDonough	-	Aye
13	Garlington	-	Absent	McKeon	-	Aye
14	Gysler	-	Aye	McNeil	-	Aye
15	Habedank	-	Aye	Melvin	-	Aye
16	Hanson, R.S.	-	Aye	Monroe	-	Aye
17	Hanson, R.	-	Aye	Murray	-	Excused
18	Harbaugh	-	Aye	Noble	-	Aye
19	Harlow	-	Aye	Nutting	-	Excused
20	Harper	-	Aye	Payne	-	Aye
21	Harrington	-	Aye	Pemberton	-	Aye
22	Heliker	-	Aye	Rebal	-	Aye
23	Holland	-	Nay	Reichert	-	Aye
24	Jacobsen	-	Aye	Robinson	-	Aye
25	James	-	Aye	Roeder	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Rollins	-	Aye	Sullivan	-	Aye
Romney	-	Aye	Swanberg	-	Aye
Rygg	-	Aye	Toole	-	Aye
Scanlin	-	Aye	Van Buskirk	-	Aye
Schiltz	-	Aye	Vermillion	-	Aye
Siderius	-	Aye	Wagner	-	Absent
Simon	-	Aye	Ward	-	Aye
Skari	-	Aye	Warden	-	Absent
Sparks	-	Aye	Wilson	-	Absent
Speer	-	Aye	Woodmansey	-	Aye
Studer	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-three Delegates voting Aye, one voting No.

PRESIDENT GRAYBILL: Now, Mr. Clerk, you lost me. Tell me what the vote is.

CLERK HANSON: Eighty-three Delegates voting Aye, one voting No.

PRESIDENT GRAYBILL: Very well, section seven is adopted. Section eight.

CLERK HANSON: Section eight, Initiative and Referendum.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section eight vote Aye; so many as shall be opposed, vote No. Has every Delegate voted?

STATE PUBLISHING CO. HELENA, MONT.

(No response)

PRESIDENT GRAYBILL: Any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Absent	Burkhardt	-	Aye
Anderson, J. H.	-	Aye	Cain	-	Aye
Anderson, O.	-	Aye	Campbell	-	Absent
Arbanas	-	Absent	Cate	-	Aye
Arness	-	Aye	Champoux	-	Absent
Aronow	-	Aye	Choate	-	Aye
Artz	-	Aye	Conover	-	Aye
Ask	-	Aye	Cross	-	Aye
Babcock	-	Aye	Dahood	-	Aye
Barnard	-	Aye	Davis	-	Excused
Bates	-	Aye	Delaney	-	Absent
Belcher	-	Aye	Driscoll	-	Aye
Berg	-	Aye	Drum	-	Aye
Berthelson	-	Aye	Eck	-	Aye
Blaylock	-	Aye	Erdmann	-	Aye
Blend	-	Aye	Eskildsen	-	Aye
Bowman	-	Aye	Etchart	-	Aye
Brazier	-	Aye	Felt	-	Absent
Brown	-	Absent	Foster	-	Aye
Bugbee	-	Aye	Furlong	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Garlington	-	Absent	McKeon	-	Aye
2	Gysler	-	Aye	McNeil	-	Aye
3	Habedank	-	Aye	Melvin	-	Aye
4	Hanson, R. S.	-	Aye	Monroe	-	Aye
5	Hanson, R.	-	Aye	Murray	-	Excused
6	Harbaugh	-	Aye	Noble	-	Aye
7	Harlow	-	Aye	Nutting	-	Excused
8	Harper	-	Aye	Payne	-	Aye
9	Harrington	-	Aye	Pemberton	-	Aye
10	Heliker	-	Aye	Rebal	-	Aye
11	Holland	-	Aye	Reichert	-	Aye
12	Jacobsen	-	Aye	Robinson	-	Aye
13	James	-	Aye	Roeder	-	Aye
14	Johnson	-	Absent	Rollins	-	Aye
15	Joyce	-	Aye	Romney	-	Nay
16	Kamhoot	-	Aye	Rygg	-	Aye
17	Kelleher	-	Aye	Scanlin	-	Aye
18	Leuthold	-	Aye	Schiltz	-	Absent
19	Loendorf	-	Aye	Siderius	-	Aye
20	Lorello	-	Aye	Simon	-	Aye
21	Mahoney	-	Absent	Skari	-	Aye
22	Mansfield	-	Aye	Sparks	-	Aye
23	Martin	-	Aye	Speer	-	Aye
24	McCarvel	-	Aye	Studer	-	Aye
25	McDonough	-	Aye	Sullivan	-	Aye

STATE
BLISHING CO.
ELENA, MONT.
3

Swanberg	-	Aye	Ward	-	Aye
Toole	-	Aye	Warden	-	Absent
Van Buskirk	-	Aye	Wilson	-	Aye
Vermillion	-	Aye	Woodmansey	-	Aye
Wagner	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-four Delegates voting Aye, one voting No.

PRESIDENT GRAYBILL: Eighty-four having voted Aye, section eight is adopted. Section nine.

CLERK HANSON: Section nine, Voter Review of Local Government, containing two subsections.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section nine, vote Aye; so many as shall be opposed, vote No. Have all the Delegates voted?

(No response)

PRESIDENT GRAYBILL: Any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	-	Absent	Aronow	-	Aye
Anderson, J.H.	-	Absent	Artz	-	Aye
Anderson, O.	-	Aye	Ask	-	Aye
Arbanas	-	Aye	Babcock	-	Aye
Arness	-	Aye	Barnard	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Bates	-	Absent	Eskildsen	-	Aye
2	Belcher	-	Nay	Etchart	-	Aye
3	Berg	-	Nay	Felt	-	Absent
4	Berthelson	-	Aye	Foster	-	Aye
5	Blaylock	-	Aye	Furlong	-	Aye
6	Blend	-	Absent	Garlington	-	Absent
7	Bowman	-	Aye	Gysler	-	Aye
8	Brazier	-	Aye	Habedank	-	Aye
9	Brown	-	Absent	Hanson, R.S.	-	Aye
10	Bugbee	-	Aye	Hanson, R.	-	Aye
11	Burkhardt	-	Aye	Harbaugh	-	Aye
12	Cain	-	Aye	Harlow	-	Aye
13	Campbell	-	Absent	Harper	-	Aye
14	Cate	-	Aye	Harrington	-	Aye
15	Champoux	-	Absent	Heliker	-	Aye
16	Choate	-	Aye	Holland	-	Nay
17	Conover	-	Aye	Jacobsen	-	Aye
18	Cross	-	Aye	James	-	Aye
19	Dahood	-	Aye	Johnson	-	Nay
20	Davis	-	Excused	Joyce	-	Aye
21	Delaney	-	Absent	Kamhoot	-	Nay
22	Driscoll	-	Aye	Kelleher	-	Aye
23	Drum	-	Aye	Leuthold	-	Nay
24	Eck	-	Aye	Loendorf	-	Aye
25	Erdmann	-	Aye	Lorello	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Mahoney	-	Absent	Rygg	-	Nay
Mansfield	-	Aye	Scanlin	-	Aye
Martin	-	Aye	Schiltz	-	Absent
McCarvel	-	Aye	Siderius	-	Aye
McDonough	-	Aye	Simon	-	Aye
McKeon	-	Aye	Skari	-	Aye
McNeil	-	Aye	Sparks	-	Aye
Melvin	-	Aye	Speer	-	Aye
Monroe	-	Aye	Studer	-	Aye
Murray	-	Excused	Sullivan	-	Aye
Noble	-	Aye	Swanberg	-	Aye
Nutting	-	Excused	Toole	-	Aye
Payne	-	Aye	Van Buskirk	-	Aye
Pemberton	-	Absent	Vermillion	-	Aye
Rebal	-	Aye	Wagner	-	Aye
Reichert	-	Absent	Ward	-	Aye
Robinson	-	Absent	Warden	-	Aye
Roeder	-	Aye	Wilson	-	Nay
Rollins	-	Aye	Woodmansey	-	Aye
Romney	-	Nay	Mr. President	-	Aye

CLERK HANSON: Mr. President, seventy-three Delegates voting Aye, nine voting No.

PRESIDENT GRAYBILL: Seventy-three Delegates voting Aye and nine voting No, section nine is adopted and we have finished adopting Local Government number eleven. Now, if

STATE PUBLISHING CO. HELENA, MONT.

you will turn to General Government number twelve, and again turn to page one. We will follow through on page one and there are some changes and the Chair will call them to your attention as we go through. Will the Clerk please read the title and section one of the General Government article.

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-1972, General Government report number twelve Be it proposed by the General Government and Constitutional Amendment Committee that there be a new article on General Government to read as follows: Article, General Government, Section one, Separation of Powers, as amended. (End reading)

Mr. President.

PRESIDENT GRAYBILL: All right, so many as shall be in favor of section one of the General Government article on separation of powers, please vote Aye. So many as are opposed, vote No. Now, section one was amended from among to into, and if you're following on page one you should, on line nine, change the words, divided into three distinct branches, so have that in mind. All in favor of section one vote Aye; opposed, No. Have all the Delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

STATE PUBLISHING CO. HELENA, MONT.

Mr. Habedank, for what purpose do you rise?

DELEGATE HABEDANK: I pushed the green button but it didn't show. I wish to show I would have voted Aye.

PRESIDENT GRAYBILL: You wish to show you voted Aye?

DELEGATE HABEDANK: Yes.

PRESIDENT GRAYBILL: Check Mr. Habedank.

CLERK HANSON: Mr. President, Mr. Habedank voting Aye.

Aasheim	- Aye	Bowman	- Aye
Anderson, J. H.	- Aye	Brazier	- Aye
Anderson, O.	- Aye	Brown	- Aye
Arbanas	- Aye	Bugbee	- Absent
Arness	- Aye	Burkhardt	- Aye
Aronow	- Aye	Cain	- Aye
Artz	- Aye	Campbell	- Absent
Ask	- Aye	Cate	- Aye
Babcock	- Aye	Champoux	- Absent
Barnard	- Aye	Choate	- Aye
Bates	- Aye	Conover	- Aye
Belcher	- Aye	Cross	- Aye
Berg	- Nay	Dahood	- Aye
Berthelson	- Nay	Davis	- Excused
Blaylock	- Aye	Delaney	- Absent
Blend	- Aye	Driscoll	- Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Drum	-	Aye	Leuthold	-	Aye
2	Eck	-	Aye	Loendorf	-	Aye
3	Erdmann	-	Aye	Lorello	-	Aye
4	Eskildsen	-	Aye	Mahoney	-	Absent
5	Etchart	-	Aye	Mansfield	-	Aye
6	Felt	-	Absent	Martin	-	Aye
7	Foster	-	Aye	McCarvel	-	Aye
8	Furlong	-	Aye	McDonough	-	Aye
9	Garlington	-	Absent	McKeon	-	Aye
10	Gysler	-	Aye	McNeil	-	Aye
11	Habedank	-	Aye	Melvin	-	Aye
12	Hanson, R.S.	-	Aye	Monroe	-	Nay
13	Hanson, R.	-	Aye	Murray	-	Excused
14	Harbaugh	-	Aye	Noble	-	Aye
15	Harlow	-	Aye	Nutting	-	Excused
16	Harper	-	Aye	Payne	-	Aye
17	Harrington	-	Aye	Pemberton	-	Aye
18	Heliker	-	Aye	Rebal	-	Aye
19	Holland	-	Aye	Reichert	-	Aye
20	Jacobsen	-	Aye	Robinson	-	Aye
21	James	-	Aye	Roeder	-	Nay
22	Johnson	-	Aye	Rollins	-	Aye
23	Joyce	-	Aye	Romney	-	Aye
24	Kamhoot	-	Aye	Rygg	-	Aye
25	Kelleher	-	Nay	Scanlin	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Schiltz	-	Aye	Toole	-	Aye
Siderius	-	Aye	Van Buskirk	-	Aye
Simon	-	Aye	Vermillion	-	Aye
Skari	-	Aye	Wagner	-	Aye
Sparks	-	Aye	Ward	-	Aye
Speer	-	Aye	Warden	-	Aye
Studer	-	Aye	Wilson	-	Aye
Sullivan	-	Aye	Woodmansey	-	Aye
Swanberg	-	Aye	Mr. President	-	Aye

CLERK HANSON: Eighty-five Delegates voting Aye, five voting No.

PRESIDENT GRAYBILL: Very well, section one is adopted. Section two.

CLERK HANSON: Section two, Continuity of Government.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section two, vote Aye on the voting machines. So many as are opposed, vote No. Have all the Delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, Mr. Clerk, take the ballot.

STATE PUBLISHING CO. HELENA, MONT.

1	Aasheim	-	Aye	Choate	-	Aye
2	Anderson, J. H.	-	Aye	Conover	-	Aye
3	Anderson, O.	-	Aye	Cross	-	Aye
4	Arbanas	-	Aye	Dahood	-	Aye
5	Arness	-	Aye	Davis	-	Absent
6	Aronow	-	Aye	Delaney	-	Absent
7	Artz	-	Aye	Driscoll	-	Nay
8	Ask	-	Aye	Drum	-	Aye
9	Babcock	-	Aye	Eck	-	Aye
10	Barnard	-	Aye	Erdmann	-	Aye
11	Bates	-	Aye	Eskildsen	-	Aye
12	Belcher	-	Aye	Etchart	-	Aye
13	Berg	-	Aye	Felt	-	Absent
14	Berthelson	-	Aye	Foster	-	Aye
15	Blaylock	-	Aye	Furlong	-	Aye
16	Blend	-	Aye	Garlington	-	Absent
17	Bowman	-	Aye	Gysler	-	Aye
18	Brazier	-	Aye	Habedank	-	Aye
19	Brown	-	Aye	Hanson, R. S.	-	Aye
20	Bugbee	-	Aye	Hanson, R.	-	Aye
21	Burkhardt	-	Aye	Harbaugh	-	Aye
22	Cain	-	Aye	Harlow	-	Aye
23	Campbell	-	Absent	Harper	-	Aye
24	Cate	-	Absent	Harrington	-	Aye
25	Champoux	-	Absent	Heliker	-	Aye

STATE PUBLISHING CO. HELENA, MONT. 3

Holland	-	Nay	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Aye	Scanlan	-	Aye
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Aye	Simon	-	Aye
Manoney	-	Absent	Skari	-	Aye
Mansfield	-	Aye	Sparks	-	Aye
Martin	-	Aye	Speer	-	Aye
McCarvel	-	Aye	Studer	-	Aye
McDonough	-	Aye	Sullivan	-	Aye
McKeon	-	Aye	Swanberg	-	Aye
McNeil	-	Aye	Toole	-	Aye
Melvin	-	Aye	Van Buskirk	-	Aye
Monroe	-	Nay	Vermillion	-	Aye
Murray	-	Absent	Wagner	-	Aye
Noble	-	Aye	Ward	-	Aye
Nutting	-	Absent	Warden	-	Absent
Payne	-	Aye	Wilson	-	Aye
Pemberton	-	Aye	Woodmansey	-	Aye
Rebal	-	Aye	Mr. President	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Very well, announce the vote, please.

CLERK HANSON: Mr. President --

PRESIDENT GRAYBILL: Mr. James, for what purpose do you rise?

DELEGATE JAMES: Mr. Chairman, spring is here. I vote Aye.

CLERK HANSON: Mr. President, James voting Aye, eighty-six Delegates voting Aye, three voting No.

PRESIDENT GRAYBILL: Very well, section two is adopted. Section three

CLERK HANSON: Section three, Oath of Office. Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section three, vote Aye on the voting machines. So many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please cast the ballot.

Aasheim	-	Aye	Arness	-	Absent
Anderson, J. H.	-	Aye	Aronow	-	Aye
Anderson, O.	-	Aye	Artz	-	Aye
Arbanas	-	Aye	Ask	-	Aye

STATE PUBLISHING CO. HELENA, MONT. 3

Babcock	-	Aye	Eck	-	Aye
Barnard	-	Aye	Erdmann	-	Aye
Bates	-	Aye	Eskildsen	-	Aye
Belcher	-	Aye	Etchart	-	Aye
Berg	-	Aye	Felt	-	Absent
Berthelson	-	Aye	Foster	-	Aye
Blaylock	-	Aye	Furlong	-	Aye
Blend	-	Aye	Garlington	-	Absent
Bowman	-	Aye	Gysler	-	Nay
Brazier	-	Aye	Habedank	-	Aye
Brown	-	Aye	Hanson, R. S.	-	Aye
Bugbee	-	Aye	Hanson, R.	-	Aye
Burkhardt	-	Aye	Harbaugh	-	Aye
Cain	-	Absent	Harlow	-	Aye
Campbell	-	Absent	Harper	-	Aye
Cate	-	Aye	Harrington	-	Aye
Champoux	-	Absent	Heliker	-	Aye
Choate	-	Aye	Holland	-	Aye
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Aye	Johnson	-	Aye
Davis	-	Excused	Joyce	-	Aye
Delaney	-	Absent	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Aye
Drum	-	Aye	Leuthold	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Loendorf	-	Aye	Romney	-	Aye
Lorello	-	Aye	Rygg	-	Aye
Mahoney	-	Absent	Scanlin	-	Nay
Mansfield	-	Aye	Schiltz	-	Aye
Martin	-	Aye	Siderius	-	Aye
McCarvel	-	Aye	Simon	-	Aye
McDonough	-	Aye	Skari	-	Aye
McKeon	-	Aye	Sparks	-	Aye
McNeil	-	Aye	Speer	-	Aye
Melvin	-	Aye	Studer	-	Aye
Monroe	-	Aye	Sullivan	-	Aye
Murray	-	Excused	Swanberg	-	Aye
Noble	-	Aye	Toole	-	Aye
Nutting	-	Excused	Van Buskirk	-	Aye
Payne	-	Aye	Vermillion	-	Aye
Pemberton	-	Aye	Wagner	-	Aye
Rebal	-	Aye	Ward	-	Aye
Reichert	-	Aye	Warden	-	Aye
Robinson	-	Aye	Wilson	-	Aye
Roeder	-	Aye	Woodmansey	-	Aye
Rollins	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-seven Delegates voting Aye, two voting No.

PRESIDENT GRAYBILL: Very well, section three is adopted. Now, section four, sub one, has an amendment. On

STATE PUBLISHING CO. HELENA, MONT.

section four, page two, you want to put a period after laws on line six and strike prohibited by this constitution. And then in subsection two, you want to strike the word, each, put a capital (I) on initiative, and put an (s) on petitions, and on line two, you've got to strike the word -- or, on line nine, you've got to strike the word, proposal, which is wrong in this text and it's got to say, of the proposed measure, comma, and then strike everything else over to -- strike everything but the shall -- proposed measure shall be signed by at least five percent of the qualified electors -- and that's all right. Then down in the bottom, strike the (A) on line thirteen, and make it a capital (P) for Petitions, with an (s) on it, and strike the -- after the word, which -- at which the measure -- strike the it on line fifteen. Mr. Schiltz, when I reread this, I wish you'd check your text because your text was wrong here. It now reads, subsection two: Initiative petitions must contain the full text of the proposed measure, comma, shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon. I think that's correct. Very well, then, subsection three has no amendments in it. So

STATE PUBLISHING CO. HELENA, MONT.

we are about to vote finally on section four, subs one, two and three, and we have made the corrections on page two for you, if you've followed us. They are the corrections that we just voted on in style and drafting in Committee of the Whole. So many as shall be in favor of section four as we have read it here with the amendments in it vote Aye, and so many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim - Aye	Berthelson - Aye
Anderson, J. H. - Aye	Blaylock - Aye
Anderson, O. - Aye	Blend - Aye
Arbanas - Aye	Bowman - Aye
Arness - Aye	Brazier - Aye
Aronow - Aye	Brown - Aye
Artz - Aye	Bugbee - Aye
Ask - Aye	Burkhardt - Aye
Babcock - Aye	Cain - Aye
Barnard - Aye	Campbell - Absent
Bates - Aye	Cate - Aye
Belcher - Aye	Champoux - Absent
Berg - Aye	Choate - Aye

STATE PUBLISHING CO. HELENA, MONT.

Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Aye	Johnson	-	Aye
Davis	-	Excused	Joyce	-	Aye
Delaney	-	Absent	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Aye
Drum	-	Aye	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Aye
Eskildsen	-	Aye	Mahoney	-	Absent
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Absent	McKeon	-	Aye
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Aye
Hanson, R.	-	Aye	Murray	-	Excused
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Excused
Harper	-	Aye	Payne	-	Aye
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Aye
Holland	-	Aye	Reichert	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Robinson	-	Aye	Studer	-	Aye
Roeder	-	Aye	Sullivan	-	Aye
Rollins	-	Aye	Swanberg	-	Aye
Romney	-	Aye	Toole	-	Aye
Rygg	-	Aye	Van Buskirk	-	Aye
Scanlin	-	Aye	Vermillion	-	Aye
Schiltz	-	Aye	Wagner	-	Aye
Siderius	-	Aye	Ward	-	Aye
Simon	-	Aye	Warden	-	Aye
Skari	-	Aye	Wilson	-	Aye
Sparks	-	Aye	Woodmansey	-	Aye
Speer	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, ninety-one Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Very well, section four is adopted ninety-one to zero. Section five, Mr. Clerk.

CLERK HANSON: Section five, Referendum, containing two subsections and subsection two as amended from Committee of the Whole.

PRESIDENT GRAYBILL: Very well, subsection two on page three, line one, put an (s) on petitions. That's all there is to it. Page three, line one, an (s) on petitions, making the word plural. Now, so many as shall be in favor of section five, as amended, please vote Aye on the voting machine; opposed, vote No. Has every Delegate voted?

STATE PUBLISHING CO. HELENA, MONT.

(No response)

PRESIDENT GRAYBILL: Any Delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Aye	Burkhardt	-	Aye
Anderson, J. H.	-	Aye	Cain	-	Aye
Anderson, O.	-	Aye	Campbell	-	Absent
Arbanas	-	Aye	Cate	-	Absent
Arness	-	Aye	Champoux	-	Absent
Aronow	-	Aye	Choate	-	Aye
Artz	-	Aye	Conover	-	Aye
Ask	-	Aye	Cross	-	Aye
Babcock	-	Aye	Dahood	-	Aye
Barnard	-	Aye	Davis	-	Excused
Bates	-	Aye	Delaney	-	Absent
Belcher	-	Aye	Driscoll	-	Aye
Berg	-	Aye	Drum	-	Aye
Berthelson	-	Aye	Eck	-	Absent
Blaylock	-	Aye	Erdmann	-	Aye
Blend	-	Aye	Eskildsen	-	Aye
Bowman	-	Aye	Etchart	-	Aye
Brazier	-	Aye	Felt	-	Absent
Brown	-	Aye	Foster	-	Aye
Bugbee	-	Aye	Furlong	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Garlington	-	Absent	McKeon	-	Aye
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Aye
Hanson, R.	-	Aye	Murray	-	Excused
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Excused
Harper	-	Aye	Payne	-	Aye
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Aye
Holland	-	Aye	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Aye	Scanlin	-	Aye
Leuthold	-	Aye	Schiltz	-	Absent
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Absent	Skari	-	Aye
Mansfield	-	Aye	Sparks	-	Aye
Martin	-	Aye	Speer	-	Aye
McCarvel	-	Aye	Studer	-	Aye
McDonough	-	Absent	Sullivan	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Swanberg	-	Aye	Ward	-	Aye
Toole	-	Absent	Warden	-	Aye
Van Buskirk	-	Aye	Wilson	-	Aye
Vermillion	-	Aye	Woodmansey	-	Aye
Wagner	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-six Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Very well, section five is adopted. Section six.

CLERK HANSON: Section six, Elections, as amended in Committee of the Whole.

Mr. President.

PRESIDENT GRAYBILL: Section six was amended on page three, line eight, after the word referendum you want to put in the word, measures -- initiative and referendum measures at the general election. Now, including this amendment, which we made in Committee of the Whole a few minutes ago, so many as shall be in favor of section six vote Aye. So many as shall be opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, Mr. Clerk, cast the ballot.

STATE PUBLISHING CO. HELENA, MONT.

1	Aasheim	-	Aye	Choate	-	Aye
2	Anderson, J. H.	-	Aye	Conover	-	Aye
3	Anderson, O.	-	Aye	Cross	-	Aye
4	Arbanas	-	Aye	Dahood	-	Aye
5	Arness	-	Aye	Davis	-	Excused
6	Aronow	-	Aye	Delaney	-	Absent
7	Artz	-	Aye	Driscoll	-	Aye
8	Ask	-	Aye	Drum	-	Aye
9	Babcock	-	Aye	Eck	-	Aye
10	Barnard	-	Aye	Erdmann	-	Aye
11	Bates	-	Aye	Eskildsen	-	Aye
12	Belcher	-	Absent	Etchart	-	Aye
13	Berg	-	Aye	Felt	-	Absent
14	Berthelson	-	Aye	Foster	-	Aye
15	Blaylock	-	Aye	Furlong	-	Aye
16	Blend	-	Aye	Garlington	-	Absent
17	Bowman	-	Absent	Gysler	-	Aye
18	Brazier	-	Aye	Habedank	-	Aye
19	Brown	-	Absent	Hanson, R. S.	-	Aye
20	Bugbee	-	Aye	Hanson, R.	-	Aye
21	Burkhardt	-	Aye	Harbaugh	-	Aye
22	Cain	-	Aye	Harlow	-	Aye
23	Campbell	-	Absent	Harper	-	Aye
24	Cate	-	Aye	Harrington	-	Aye
25	Champoux	-	Absent	Heliker	-	Aye

STATE PUBLISHING CO. HELENA, MONT. 3

1	Holland	-	Aye	Reichert	-	Aye
2	Jacobsen	-	Aye	Robinson	-	Aye
3	James	-	Aye	Roeder	-	Aye
4	Johnson	-	Aye	Rollins	-	Aye
5	Joyce	-	Aye	Romney	-	Aye
6	Kamhoot	-	Aye	Rygg	-	Aye
7	Kelleher	-	Aye	Scanlin	-	Aye
8	Leuthold	-	Aye	Schiltz	-	Absent
9	Loendorf	-	Aye	Siderius	-	Absent
10	Lorello	-	Aye	Simon	-	Aye
11	Mahoney	-	Absent	Skari	-	Aye
12	Mansfield	-	Aye	Sparks	-	Aye
13	Martin	-	Aye	Speer	-	Aye
14	McCarvel	-	Aye	Studer	-	Aye
15	McDonough	-	Aye	Sullivan	-	Aye
16	McKeon	-	Aye	Swanberg	-	Aye
17	McNeil	-	Aye	Toole	-	Aye
18	Melvin	-	Aye	Van Buskirk	-	Aye
19	Monroe	-	Aye	Vermillion	-	Aye
20	Murray	-	Excused	Wagner	-	Aye
21	Noble	-	Aye	Ward	-	Aye
22	Nutting	-	Excused	Warden	-	Aye
23	Payne	-	Aye	Wilson	-	Aye
24	Pemberton	-	Aye	Woodmansey	-	Absent
25	Rebal	-	Aye	Mr. President	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.

CLERK HANSON: Mr. President, eighty-five Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Section six is adopted. Section seven.

CLERK HANSON: Section seven, Number of Electors, as amended in Committee of the Whole.

Mr. President.

PRESIDENT GRAYBILL: On line thirteen, after the word, for, you should put in the words, the office of -- so it will be the number of votes cast for the office of governor. This amendment was made in Committee of the Whole a few minutes ago. Including that amendment, all those in favor of section seven vote Aye, and those opposed vote No. Have all the Delegates voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: I'll cast the ballot, then.

Aasheim	-	Aye	Artz	-	Aye
Anderson, J. H.	-	Aye	Ask	-	Aye
Anderson, O.	-	Aye	Babcock	-	Aye
Arbanas	-	Aye	Barnard	-	Aye
Arness	-	Aye	Bates	-	Absent
Aronow	-	Aye	Belcher	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

1	Berg	-	Aye	Felt	-	Absent
2	Berthelson	-	Aye	Foster	-	Aye
3	Blaylock	-	Aye	Furlong	-	Aye
4	Blend	-	Aye	Garlington	-	Absent
5	Bowman	-	Aye	Gysler	-	Absent
6	Brazier	-	Aye	Habedank	-	Aye
7	Brown	-	Aye	Hanson, R. S.	-	Aye
8	Bugbee	-	Aye	Hanson, R.	-	Aye
9	Burkhardt	-	Aye	Harbaugh	-	Aye
10	Cain	-	Aye	Harlow	-	Aye
11	Campbell	-	Absent	Harper	-	Aye
12	Cate	-	Aye	Harrington	-	Aye
13	Champoux	-	Aye	Heliker	-	Aye
14	Choate	-	Aye	Holland	-	Aye
15	Conover	-	Aye	Jacobsen	-	Aye
16	Cross	-	Aye	James	-	Aye
17	Dahood	-	Aye	Johnson	-	Aye
18	Davis	-	Excused	Joyce	-	Aye
19	Delaney	-	Absent	Kamhoot	-	Aye
20	Driscoll	-	Aye	Kelleher	-	Aye
21	Drum	-	Aye	Leuthold	-	Aye
22	Eck	-	Aye	Loendorf	-	Aye
23	Erdmann	-	Aye	Lorello	-	Aye
24	Eskildsen	-	Aye	Mahoney	-	Absent
25	Etchart	-	Aye	Mansfield	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

Martin	-	Aye	Scanlin	-	Aye
McCarvel	-	Aye	Schiltz	-	Absent
McDonough	-	Aye	Siderius	-	Aye
McKeon	-	Aye	Simon	-	Aye
McNeil	-	Aye	Skari	-	Aye
Melvin	-	Aye	Sparks	-	Aye
Monroe	-	Aye	Speer	-	Aye
Murray	-	Excused	Studer	-	Aye
Noble	-	Aye	Sullivan	-	Aye
Nutting	-	Excused	Swanberg	-	Aye
Payne	-	Aye	Toole	-	Aye
Pemberton	-	Aye	Van Buskirk	-	Aye
Rebal	-	Aye	Vermillion	-	Aye
Reichert	-	Aye	Wagner	-	Aye
Robinson	-	Aye	Ward	-	Aye
Roeder	-	Aye	Warden	-	Aye
Rollins	-	Aye	Wilson	-	Aye
Romney	-	Aye	Woodmansey	-	Aye
Rygg	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-eight Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Very well, section seven is adopted. Section eight.

CLERK HANSON: Section eight, Recall.

Mr. President.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: No. Section eight, Prohibition.

CLERK HANSON: Oh, Section eight, Prohibition. Excuse me.

PRESIDENT GRAYBILL: Section eight is Prohibition, lines fifteen to seventeen on page three. So many as shall be in favor of section eight, vote Aye, and so many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, I'm going to close the ballot.

Aasheim - Aye	Belcher - Aye
Anderson, J. H. - Aye	Berg - Aye
Anderson, O. - Aye	Berthelson - Aye
Arbanas - Aye	Blaylock - Aye
Arness - Aye	Blend - Aye
Aronow - Aye	Bowman - Aye
Artz - Aye	Brazier - Aye
Ask - Aye	Brown - Aye
Babcock - Aye	Bugbee - Aye
Barnard - Aye	Burkhardt - Aye
Bates - Aye	Cain - Aye

STATE PUBLISHING CO. HELENA, MONT.

Campbell	-	Absent	Harper	-	Aye
Cate	-	Aye	Harrington	-	Aye
Champoux	-	Aye	Heliker	-	Aye
Choate	-	Aye	Holland	-	Aye
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Aye	Johnson	-	Aye
Davis	-	Excused	Joyce	-	Aye
Delaney	-	Absent	Kamhoot	-	Aye
Driscoll	-	Nay	Kelleher	-	Aye
Drum	-	Aye	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Aye
Eskildsen	-	Aye	Mahoney	-	Absent
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Absent	McKeon	-	Aye
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Absent
Hanson, R.	-	Aye	Murray	-	Excused
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Excused

STATE
PUBLISHING CO.
HELENA, MONT.
3

Payne	-	Aye	Sparks	-	Aye
Pemberton	-	Aye	Speer	-	Aye
Rebal	-	Aye	Studer	-	Aye
Reichert	-	Aye	Sullivan	-	Aye
Robinson	-	Aye	Swanberg	-	Aye
Roeder	-	Aye	Toole	-	Aye
Rollins	-	Aye	Van Buskirk	-	Aye
Romney	-	Aye	Vermillion	-	Aye
Rygg	-	Aye	Wagner	-	Aye
Scanlin	-	Aye	Ward	-	Aye
Schiltz	-	Aye	Warden	-	Aye
Siderius	-	Aye	Wilson	-	Absent
Simon	-	Aye	Woodmansey	-	Aye
Skari	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-nine Delegates voting Aye, one voting No.

PRESIDENT GRAYBILL: Very well, eighty-nine having voted Aye, section eight is adopted. Section nine.

CLERK HANSON: Section nine, Recall.

Mr. President

PRESIDENT GRAYBILL: So many as shall be in favor of section nine, vote Aye; opposed, vote No. All right, has every Delegated voted?

(No response)

PRESIDENT GRAYBILL: Delegates understand they are

STATE PUBLISHING CO. HELENA, MONT.

about to change the rule here. Anybody want to change their vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Nay	Cain	-	Aye
Anderson, J. H.	-	Aye	Campbell	-	Absent
Anderson, O.	-	Aye	Cate	-	Nay
Arbanas	-	Nay	Champoux	-	Aye
Arness	-	Aye	Choate	-	Aye
Aronow	-	Nay	Conover	-	Aye
Artz	-	Nay	Cross	-	Aye
Ask	-	Nay	Dahood	-	Nay
Babcock	-	Nay	Davis	-	Excused
Barnard	-	Nay	Delaney	-	Absent
Bates	-	Nay	Driscoll	-	Nay
Belcher	-	Nay	Drum	-	Nay
Berg	-	Nay	Eck	-	Aye
Berthelson	-	Nay	Erdmann	-	Aye
Blaylock	-	Nay	Eskildsen	-	Aye
Blend	-	Aye	Etchart	-	Nay
Bowman	-	Nay	Felt	-	Absent
Brazier	-	Aye	Foster	-	Nay
Brown	-	Nay	Furlong	-	Aye
Bugbee	-	Aye	Garlington	-	Absent
Burkhardt	-	Aye	Gysler	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Habedank	-	Nay	Melvin	-	Aye
Hanson, R. S.	-	Nay	Monroe	-	Nay
Hanson, R.	-	Nay	Murray	-	Excused
Harbaugh	-	Nay	Noble	-	Nay
Harlow	-	Aye	Nutting	-	Excused
Harper	-	Nay	Payne	-	Nay
Harrington	-	Nay	Pemberton	-	Nay
Heliker	-	Aye	Rebal	-	Nay
Holland	-	Nay	Reichert	-	Nay
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Nay	Rollins	-	Nay
Joyce	-	Nay	Romney	-	Nay
Kamhoot	-	Nay	Rygg	-	Nay
Kelleher	-	Nay	Scanlin	-	Aye
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Nay	Siderius	-	Nay
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Absent	Skari	-	Nay
Mansfield	-	Nay	Sparks	-	Nay
Martin	-	Aye	Speer	-	Aye
McCarvel	-	Aye	Studer	-	Nay
McDonough	-	Aye	Sullivan	-	Nay
McKeon	-	Nay	Swanberg	-	Nay
McNeil	-	Nay	Toole	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Van Buskirk	-	Nay	Warden	-	Aye
Vermillion	-	Aye	Wilson	-	Nay
Wagner	-	Aye	Woodmansey	-	Aye
Ward	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, thirty-eight voting Aye, fifty-four voting No.

PRESIDENT GRAYBILL: By your vote of fifty-four having voted No, you have deleted section nine on recall from the General Government article and that means there is no recall in the -- no constitutional recall in the state if we do this, so I guess we've done it. Very well, section ten.

CLERK HANSON: Section ten, Gambling.

Mr. President.

PRESIDENT GRAYBILL: The Chair feels that section ten, of which there are two, is really a ballot alternative. The Chair feels that you should vote on both of them at once. Does anyone disagree with the Chair on that? In other words, you can't -- we've checked them as to style and drafting. They are inconsistent, and the point is, they are to be put on the ballot as an alternative. I see no point in taking a separate ballot on final adoption except as a ballot alternative. Very well, everyone understanding that you are voting on the ballot alternative and the nature of it and the language of it, so many as shall be in favor of the two section tens as a ballot alternative, vote Aye, and so many as shall be opposed, vote

STATE PUBLISHING CO. HELENA, MONT.

No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please cast the ballot.

Aasheim	-	Aye	Bugbee	-	Aye
Anderson, J. H.	-	Aye	Burkhardt	-	Aye
Anderson, O.	-	Aye	Cain	-	Aye
Arbanas	-	Aye	Campbell	-	Absent
Arness	-	Nay	Cate	-	Aye
Aronow	-	Aye	Champoux	-	Aye
Artz	-	Aye	Choate	-	Aye
Ask	-	Aye	Conover	-	Aye
Babcock	-	Aye	Cross	-	Aye
Barnard	-	Nay	Dahood	-	Aye
Bates	-	Aye	Davis	-	Excused
Belcher	-	Aye	Delaney	-	Absent
Berg	-	Aye	Driscoll	-	Aye
Berthelson	-	Aye	Drum	-	Aye
Blaylock	-	Aye	Eck	-	Aye
Blend	-	Aye	Erdmann	-	Aye
Bowman	-	Aye	Eskildsen	-	Aye
Brazier	-	Aye	Etchart	-	Aye
Brown	-	Aye	Felt	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

Studer	-	Aye	Wagner	-	Aye
Sullivan	-	Aye	Ward	-	Nay
Swanberg	-	Aye	Warden	-	Aye
Toole	-	Aye	Wilson	-	Aye
Van Buskirk	-	Aye	Woodmansey	-	Aye
Vermillion	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-one Delegates voting Aye, eleven voting No.

PRESIDENT GRAYBILL: Eighty-one Delegates having voted Aye, the ballot alternative on gambling is adopted. Section eleven.

CLERK HANSON: Section eleven, Boundaries.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section eleven on boundaries vote Aye; so many as shall be opposed vote No. Members of the body, the Chair just struck the closed vote before he wanted to. Does anyone here wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Nay	Aronow	-	Aye
Anderson, J. H.	-	Aye	Artz	-	Aye
Anderson, O.	-	Nay	Ask	-	Nay
Arbanas	-	Nay	Babcock	-	Aye
Arness	-	Nay	Barnard	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Bates	-	Aye	Eskildsen	-	Aye
2	Belcher	-	Aye	Etchart	-	Aye
3	Berg	-	Nay	Felt	-	Absent
4	Berthelson	-	Aye	Foster	-	Nay
5	Blaylock	-	Nay	Furlong	-	Nay
6	Blend	-	Nay	Garlington	-	Absent
7	Bowman	-	Nay	Gysler	-	Nay
8	Brazier	-	Nay	Habedank	-	Aye
9	Brown	-	Nay	Hanson, R. S.	-	Absent
10	Bugbee	-	Nay	Hanson, R.	-	Aye
11	Burkhardt	-	Nay	Harbaugh	-	Aye
12	Cain	-	Aye	Harlow	-	Aye
13	Campbell	-	Absent	Harper	-	Nay
14	Cate	-	Nay	Harrington	-	Aye
15	Champoux	-	Nay	Heliker	-	Aye
16	Choate	-	Nay	Holland	-	Nay
17	Conover	-	Nay	Jacobsen	-	Absent
18	Cross	-	Nay	James	-	Aye
19	Dahood	-	Nay	Johnson	-	Aye
20	Davis	-	Excused	Joyce	-	Aye
21	Delaney	-	Absent	Kamhoot	-	Aye
22	Driscoll	-	Aye	Kelleher	-	Nay
23	Drum	-	Nay	Leuthold	-	Nay
24	Eck	-	Nay	Loendorf	-	Nay
25	Erdmann	-	Aye	Lorello	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Mahoney	-	Absent	Rygg	-	Nay
Mansfield	-	Nay	Scanlin	-	Nay
Martin	-	Nay	Schiltz	-	Nay
McCarvel	-	Nay	Siderius	-	Nay
McDonough	-	Nay	Simon	-	Nay
McKeon	-	Aye	Skari	-	Nay
McNeil	-	Nay	Sparks	-	Nay
Melvin	-	Nay	Speer	-	Nay
Monroe	-	Nay	Studer	-	Nay
Murray	-	Excused	Sullivan	-	Aye
Noble	-	Nay	Swanberg	-	Nay
Nutting	-	Excused	Toole	-	Nay
Payne	-	Nay	Van Buskirk	-	Absent
Pemberton	-	Nay	Vermillion	-	Nay
Rebal	-	Aye	Wagner	-	Aye
Reichert	-	Nay	Ward	-	Nay
Robinson	-	Nay	Warden	-	Nay
Roeder	-	Aye	Wilson	-	Aye
Rollins	-	Nay	Woodmansey	-	Nay
Romney	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, thirty-two Delegates voting Aye, fifty-seven voting No.

PRESIDENT GRAYBILL: Fifty-seven Delegates having voted No and thirty-two having voted Aye, the boundaries are stricken from the Constitution. Having completed your ballot-

STATE PUBLISHING CO. HELENA, MONT.

ing on Local Government article eleven -- or, proposal number eleven -- and General Government proposal number twelve, the Chair will refer these to Style and Drafting for inclusion in the final Constitution, but I'll hear Mr. Habedank first.

DELEGATE HABEDANK: Mr. President, I merely desire to ask a question. I assume that Style and Drafting can change ten to nine and we won't end up with a gap because of what we've done.

PRESIDENT GRAYBILL: It would be the Chair's understanding that they could. There are a number of style changes that they have to make in terms of the final article in terms of putting numbers on them and things of that nature. The articles are not all numbered so I'm sure they could make ten nine. Is there any other question?

(No response)

PRESIDENT GRAYBILL: We still have to adopt the Constitution as a whole. Very well, the Chair will assign these to Style and Drafting for that purpose. Now, ladies and gentlemen, I think we will be on Order of Business number eleven, announcements. First of all, the Chair would like to say that, unless I am misinformed, our work is done unless we make some changes until the Style and Drafting Committee makes its ballot proposal, which they tell me will be ready. The ballot includes the other two parts, the calendar and the -- well, I can never remember the word, but the part where we tell

STATE PUBLISHING CO. HELENA, MONT.

what statutes should be amended, and I understand that will be ready for debate Wednesday morning. It will not be printed and ready for debate tomorrow. However, the Chair feels that something may come up tomorrow and the Chair does not like to recess you over to Wednesday because we wouldn't get paid then and I think something may come up and many of us will be necessary, so the Chair intends, at least for the moment, to recess until nine tomorrow. At nine tomorrow we may have a short meeting unless something comes up that someone wants to bring up. Now, the Chair would like you to be appraised that if you have something, please let us know and let's bring it up at nine tomorrow. Let's not bring it up at five Wednesday afternoon after we have finished the other debate, because at that point it's going to be too late to make the necessary and appropriate changes. As I think we demonstrated today, it's not always easy to get everything straightened out after we make an amendment in these things, so we will recess in a few minutes until nine o'clock tomorrow. Secondly, the Chair -- I don't know whether the notice has been put on your desks or not, but the Chair understands that there is to be a no-host dinner at the Montana Club on Thursday night -- the same arrangement as before, five dollars, including two drinks, and the drinking will be on a different floor than the dinner this time. I believe it's the intent of the special committee that out of town guests -- the out of town guests that we are in-

STATE
BLISHING CO.
ÉLENA, MONT.
3

viting, and we are inviting some out of town guests to the Friday morning final ceremony, that they will be invited guests to that meeting but otherwise it would be Delegates. Then you should have in mind that we -- I haven't gotten a final time from Mr. Garlington, but it's my understanding that Friday morning we will have the final ceremony, including signing and so forth, which will doubtless take most of the morning, but we should be done and be able to adjourn some time after that, at the end of that ceremony on Friday, so you'll probably have the afternoon to leave town if you wanted to. Style and Drafting wants to be called into session immediately upon adjournment this afternoon. Now, with those preliminary announcements, are there any other announcements from the floor?

Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, Natural Resources over here in the corner right after adjournment for the purpose of signing eachother's committee pictures.

PRESIDENT GRAYBILL: Mrs. Warden.

DELEGATE WARDEN: Mr. President, the members of the old Public Information Committee, the one that is being superceded by the Voter Education, will have a no-host dinner tonight at the Colonial at six-thirty.

PRESIDENT GRAYBILL: Dinner for the Public Information Committee tonight at six-thirty at the Colonial.

Mr. Blaylock.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE BLAYLOCK: Mr. Chairman, I have an inquiry to make of the Chair in regard to your report on the budget the other day. I think you made the statement -- and you correct me if I'm wrong -- that we have been paid for two round trips to the Convention and that we would not be paid for the third one.

PRESIDENT GRAYBILL: I'm glad you mentioned that, not so much to clear it up as to call a meeting of the budget subcommittee and, actually, the whole administration committee should be available on recess tomorrow, after our nine o'clock session. That's right. We've only had two round trips. However, that's all we've taken -- we had to take. I'm aware that many of us took a lot more. The Rules Committee met with me on this matter and has recommended to the budget subcommittee and then to the administration committee that because the Enabling Act specifies that we are to get three, that we pay three. Now, that's going to be taken up by the administration committee tomorrow, and the budget committee, and let's say that it's going to be recommended that we pay three, but I don't know what the committee will do, and then the committee will make a report to this body. Very well, I think that we are ready to stand in recess until tomorrow morning at nine o'clock, Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move we adjourn until nine A.M., March 21, 1972.

STATE
PUBLISHING CO.
HELENA, MONT.

PRESIDENT GRAYBILL: The motion is to recess until nine A.M., tomorrow morning. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention adjourned at 3:50 o'clock, P.M.)

STATE PUBLISHING CO. HELENA, MONT.

MONTANA CONSTITUTIONAL CONVENTION

FIFTY-FIRST DAY

Tuesday, March 21, 1972 Convention Hall

9:40 o'clock, A.M. Helena, Montana

PRESIDENT GRAYBILL: The Convention will be in session. The Convention will come to order. I'm sorry that we are a little late this morning, but as usual, we were working on the Convention's business, and if you will all stand, Reverend Burkhardt will lead us in an Invocation this morning.

DELEGATE BURKHARDT: Let us pray. We pause, O God, toward the end of our work, giving deep thanks for the gift of life itself, for the grandeur and quiet beauty of our beloved Montana. We pray that somehow the work we have done here may offer promise to those who come after us, and that we may always deeply appreciate the part that every person has played in this task in the spirit of our Lord. Amen.

PRESIDENT GRAYBILL: Very well, we will take attendance by voting Aye on the voting machines. Those who vote No are not present -- at least mentally.

(Laughter)

CLERK HANSON: Mr. President, may Delegates Campbell and Toole be excused this day?

PRESIDENT GRAYBILL: Campbell and Toole are excused.

CLERK HANSON: Delegate Conover, Delegate Cross,

STATE PUBLISHING CO. HELENA, MONT.

Delegate Dahood, Delegate Davis, Delegate Champoux. Delegate Davis.

PRESIDENT GRAYBILL: Very well, take the attendance.

CLERK HANSON: Delegate Warden.

Aasheim	- Present	Cain	- Present
Anderson, J. H.	- Present	Campbell	- Excused
Anderson, O.	- Present	Cate	- Present
Arbanas	- Present	Champoux	- Present
Arness	- Present	Choate	- Present
Aronow	- Present	Conover	- Present
Artz	- Present	Cross	- Present
Ask	- Present	Dahood	- Present
Babcock	- Present	Davis	- Absent
Barnard	- Present	Delaney	- Present
Bates	- Present	Driscoll	- Present
Belcher	- Present	Drum	- Present
Berg	- Present	Eck	- Present
Berthelson	- Present	Erdmann	- Present
Blaylock	- Present	Eskildsen	- Present
Blend	- Present	Etchart	- Present
Bowman	- Present	Felt	- Present
Brazier	- Present	Foster	- Present
Brown	- Present	Furlong	- Present
Bugbee	- Present	Garlington	- Present
Burkhardt	- Present	Gysler	- Present

STATE PUBLISHING CO. HELENA, MONT.

1	Habedank	-	Present	Melvin	-	Present
2	Hanson, R. S.	-	Present	Monroe	-	Present
3	Hanson, R.	-	Present	Murray	-	Present
4	Harbaugh	-	Present	Noble	-	Present
5	Harlow	-	Present	Nutting	-	Present
6	Harper	-	Present	Payne	-	Present
7	Harrington	-	Present	Pemberton	-	Present
8	Heliker	-	Present	Rebal	-	Present
9	Holland	-	Present	Reichert	-	Present
10	Jacobsen	-	Present	Robinson	-	Present
11	James	-	Present	Roeder	-	Present
12	Johnson	-	Present	Rollins	-	Present
13	Joyce	-	Present	Romney	-	Present
14	Kamhoot	-	Present	Rygg	-	Present
15	Kelleher	-	Present	Scanlin	-	Present
16	Leuthold	-	Present	Schiltz	-	Present
17	Loendorf	-	Present	Siderius	-	Present
18	Lorello	-	Present	Simon	-	Present
19	Mahoney	-	Present	Skari	-	Present
20	Mansfield	-	Present	Sparks	-	Present
21	Martin	-	Present	Speer	-	Present
22	McCarvel	-	Present	Studer	-	Present
23	McDonough	-	Present	Sullivan	-	Present
24	McKeon	-	Present	Swanberg	-	Present
25	McNeil	-	Present	Toole	-	Excused

STATE PUBLISHING CO. HELENA, MONT.

Van Buskirk	-	Present	Warden	-	Absent
Vermillion	-	Present	Wilson	-	Present
Wagner	-	Present	Woodmansey	-	Present
Ward	-	Present	Mr. President	-	Present

CLERK HANSON: Mr. President, ninety-six Delegates present, two excused and two absent.

PRESIDENT GRAYBILL: Very well, the journal may so show. Order of Business Number One, Reports of Standing Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Two, Reports of Select Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Three, Communications.

CLERK HANSON: (Reading) Helena, Montana 59601. March 21, 1972. Honorable Leo Graybill, Jr., President, Montana Constitutional Convention, Capitol, Helena, Montana. Dear Mr. President: In accordance with the provisions of section 15(2), Extraordinary Senate Bill No. 6, Chapter EX-1, Laws of Montana 1971, the licenses of the following lobbyists have been suspended, as of March 21, 1972, for failure to file statements of expense within the period specified by law: 3-72, Henry E. Lohr; 28-72, David L. Jackson; 58-72, Roy G. Crosby; 59-72, D. H. Siewert; 79-72, C. S. Robinson. The sus-

STATE PUBLISHING CO. HELENA, MONT.

pension of Gerald McCurdy, license number 39-72, reported to you on February 22, 1972, is still in effect. Sincerely yours, Frank Murray, Secretary of State. (End reading)

PRESIDENT GRAYBILL: Are there other communications?

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Very well. Order of Business Number Four, Introduction and Reference of Delegate Proposals.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Five, Final Consideration.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Six, Adoption.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Seven, Motions and Resolutions.

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-72, Resolution Number Sixteen, introduced March 21, 1972: A resolution to the Montana Constitutional Convention describing the presentation of the ballot. (End reading) Do you want it read?

PRESIDENT GRAYBILL: Yes, read it in its entirety, please.

CLERK HANSON: (Reading) Whereas, all articles will be presented separately for a yes or no vote. Whereas,

STATE PUBLISHING CO. HELENA, MONT.

any alternate proposals will be presented separately for a yes or no vote. Whereas, in case any article fails to pass the election, then the provision under that department of the 1889 Constitution will be in effect, except as where it may conflict with the intent of any section of the adopted articles of the new Constitution which, thereby, will take precedence over the 1889 Constitutional provision. Now, therefore, be it resolved by the Constitutional Convention of the State of Montana: The ballot will be drawn in such manner that all articles will be presented separately for a Yes or No vote. All alternative proposals will be presented separately for a Yes or No vote. Introduced by Torrey Johnson. (End reading)

Mr. President.

PRESIDENT GRAYBILL: Very well, Mr. Johnson, your resolution is being referred to Style and Drafting since it deals with their problems.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, Mr. Johnson's resolution was taken under -- into consideration last night by Style and Drafting, and by unanimous vote of the committee, rejected. Our minutes reflect the reasons therefor. Sufficient to say, we thought it was unduly confusing, that it came too late for any more serious consideration, and that it would probably be quite expensive.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: It is the understanding of the Chair that the point of Mr. Johnson's resolution was that we consider section by section on the ballot the Constitution -- or article by article, not section by section -- the new Constitution. In other words, vote on each article, article by article, on the ballot. And, apparently Style and Drafting did have access to the resolution and did consider it. Mr. Johnson, do you care to discuss it at this time since my reference to that committee is not going to be effective. I would be happy to at least let you discuss it. If any problem arises, I might have to refer it to Rules but I certainly want you to have a chance to discuss it.

DELEGATE JOHNSON: Thank you, Mr. President. Ladies and gentlemen, it seems like I'm always a day late and a dollar short -- maybe two dollars in this case, if it's going to be expensive to handle. But, however, -- and I'm sorry that I didn't get this in two, three weeks ago. I didn't believe it would be necessary. I thought that the ballot proposition would come up and we'd all have a chance to discuss it and so, I guess I was a little naive in that department. I believe that if we present this ballot to the voters of Montana, article by article, that it would stand a much better chance of being passed and I think they would take more of an interest in it. I've heard this kind of talk ever since last fall and the people would like to have it article by article.

STATE PUBLISHING CO. HELENA, MONT.

Maybe it isn't quite as efficient as presenting it all in one block, but there's one thing sure, if there's one or two articles in the area that are very controversial throughout the whole state, they might stand to defeat the whole proposition, and I would like to see the voters have a chance to do just exactly this if they wanted to vote out one of these particular articles, and if you understood as it was read, my reasoning is that if one of the articles is defeated that the old section in our present Constitution would take precedence, and then if there is a conflict overlapping in intent -- overlapping in meaning with any of the sections in the new articles, which you all are aware there are some repititious sections, repititious insertions in separate articles that might overlap in meaning, so there my intent is the adopted new proposal would take precedence over our present Constitution article in the area which we are -- now, I suppose I have confused you more -- but, in any event, I do not see a great problem with this. I think it could be worked out very handily and I'd feel a great deal better about the whole situation myself, I know that. I don't -- this is an area where I think we stand the best chance of putting this new Constitution across and I hate to see it lose. There is a chance it will lose, you know. You have to admit this, and after all the work that was put in on it -- and there's a little bit of every one of us -- I mean, quite a bit of every one of us in

STATE PUBLISHING CO. HELENA, MONT.

During the process of numbering the pages of the Transcript, page number 8677 was omitted. To preserve continuity of page numbers, this sheet is being inserted.

Marie E. Durkee, Reporter.

STATE PUBLISHING CO. HELENA, MONT.

this new proposed Constitution and I'm sure you all feel as strongly as I do about it -- the waste of time and the waste of money and we want to do something for Montana and this is a very vital thing and it is, without any doubt, the most important endeavor made in the several generations for the good of Montana. If there's anybody else that wants to talk on it, I'd sure like to hear them. I'm sure you all understand my position. I'd like to answer any questions, if any come up, that you think I might be able to answer. Thank you very much for your consideration.

PRESIDENT GRAYBILL: Mr. Johnson, will you yield to a question from the Chair?

DELEGATE JOHNSON: Yes, sir.

PRESIDENT GRAYBILL: As we adopted these articles, I'm not sure that we made sure that they fit particularly well with the old Constitution, and I'm concerned, for example, as to where we put the veto power. The veto power is now in our Executive article and the veto power in the old Constitution is in the Legislative article, and we might be in a position that the wrong one got adopted and we wouldn't have any veto power or we might have two veto powers. Have you thought about that?

DELEGATE JOHNSON: Well, I think, Mr. President, that if Style and Drafting couldn't take care of it, well, we'd have to leave it up to the legislature to interpret it

STATE PUBLISHING CO. HELENA, MONT.

or make an amendment to cover it. But, I insist that the new-- whichever proposal passes would have precedence over the present Constitution article it would have been put in place of had it been defeated.

PRESIDENT GRAYBILL: Well, my point is, if the new Legislative article passed but the new Executive article did not, then we wouldn't have any veto power.

DELEGATE JOHNSON: Well, yes, it's in the Legislative --

PRESIDENT GRAYBILL: No, it's in the Executive in our new one and it's in the Legislative in our old one. Well, all right, I just wanted to call -- the problem is, I'm not sure the new Constitution dovetails with the old one so that section by section we'd have anything. Mr. Johnson, I think the problem is this. You have presented this resolution. I referred it to Style and Drafting. Style and Drafting has already considered it. It seems to me that you have tried to reach by resolution what you probably can attempt to reach by amendment when Style and Drafting presents its budget -- or, its ballot substantive proposal, which I think will probably be this afternoon or tomorrow. Now, when they present their ballot proposal, their ballot will suggest that we vote on the Constitution and these three side issues, and at that time, by amendment to their ballot proposal, you could propose that we do it section by section -- or article by article. And at

STATE PUBLISHING CO. HELENA, MONT.

that time, it would seem to me the body could debate whether they wanted to do it your way or the way Style and Drafting has proposed, so I think that's your best shot now. It doesn't do me any good to refer it to Rules because by the time it got back, nothing would be accomplished.

DELEGATE JOHNSON: Well, Mr. President, you're suggesting then that I present it as an amendment or a proposal?

PRESIDENT GRAYBILL: I'm suggesting that when the substantive report from Style and Drafting on budget -- or, on ballot -- on the ballot form -- comes before this body for debate that, naturally, you can amend it and your amendment, I presume from your resolution, would be to have it considered article by article and at that time we could debate it as a body and we'll either agree with you or we'll agree with them.

DELEGATE JOHNSON: Thank you very much, Mr. President, I'll do that.

PRESIDENT GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Mr. President, it seems to me it's a little irregular to come out and have a committee report before something is referred to them. I think that we should at least have the courtesy shown us by the Style and Drafting Committee, if they made a decision on something that hadn't even got to them, and I'm sure it didn't get to the Chair until just now. Could we have a reason why they did this ahead? Did they -- what's the reason? Could we have

STATE PUBLISHING CO. HELENA, MONT.

some answer from the Style and Drafting Committee?

PRESIDENT GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Johnson brought it up to the committee and handed it to us and said, I present this resolution to you. What is your action on it? And we took action on it. When it came up this morning, the Chair referred it to the committee. I advised the Chair that we had already taken action and it would be useless to act on it again.

PRESIDENT GRAYBILL: Yes, Mr. Johnson took it, Mr. Mahoney, to the committee.

DELEGATE MAHONEY: Mr. President, when Mr. Johnson's resolution is referred to the Chair, like it was done this morning, now out of courtesy, he probably took it to them but this was no official action because it hadn't got to them officially and I think the Chair should -- is -- when they go out and you refer it and then they give you a report right then, I think this is a new thing. I've never heard of this, Mr. Chairman. I certainly don't like it.

PRESIDENT GRAYBILL: Well, the Chair did refer it to Style and Drafting and I'll leave it referred and maybe they will come in with a report, Mr. Mahoney. All right, are there any other motions or resolutions?

(No response)

PRESIDENT GRAYBILL: Very well, we'll be on Order of Business Number Seven -- or, Number Eight, Unfinished Bus-

STATE PUBLISHING CO. HELENA, MONT.

iness.

Mr. Champoux.

DELEGATE CHAMPOUX: Pages, sir?

PRESIDENT GRAYBILL: Yes, Pages, sir.

DELEGATE CHAMPOUX: Right. It's my pleasure this morning to introduce the Pages this week. Would all the Pages come forward at this time? We also have a number of old Pages that -- shall I use that term, old? -- former Pages that have come back and are donating their services without getting paid. The new Pages are Marilyn Haugen, of Augusta; Elizabeth Schrader, of Great Falls; Peggy Quinn, of Helena; Kathy Blake, of Kalispell. And the former Pages donating their services are Jack McLean, of Brady; his twin brother, Jim McLean; Heidi Headapohl, of Helena; Susan Leaphart, of Helena; Tala Skari, of Chester -- she's the daughter of Carmen Skari; Carl Rostad, of Helena. And, Mr. Ray Lohman, at this time -- he hasn't had the opportunity to publicly express his appreciation for all of the Pages that worked at this Convention -- he asked me this morning if I would put in the record his appreciation to all the Pages that have worked at this Convention. They have been, he says, just great and I think we can all echo that statement. Thank you very much.

(Applause)

PRESIDENT GRAYBILL: We want to thank you Pages very much for helping us and we are looking forward to the

STATE PUBLISHING CO. HELENA, MONT.

rest of the week and your names will appear in the proceedings for today and we'll see that you get a copy of the proceedings to take with you. Very well, Order of Business Number Nine, Special Orders.

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number Ten, General Orders.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Eleven, Committee Announcements and other announcements. Now, the Chair has a couple of announcements. The Montana Historical Society has asked me to remind the Convention Delegates that the library archives there want to preserve the personal records collected during your connection with the Constitutional Convention. One-third of the Delegates have expressed an intent to deposit their papers in the archives and anyone else caring to do so will be most welcome. Records of the Commission and the Convention will be preserved in the society archives, but they would like your personal papers as well -- campaign material, correspondence, notes, or any input that helped you decide on the issues for historical preservation. You can make arrangements for deposit now or in the future by a call or a letter to the Montana Historical Society archives. The number, if you want to write it down, is 442-2694, 442-2694, and I was informed that if you want, they'll even send

STATE PUBLISHING CO. HELENA, MONT.

a box to put it in. So, just call them up and they'll help you clean up your desk. Then, as I understand it, there are reservation lists at -- Mr. Toole or my secretary has a reservation list for Thursday night's dinner, and I overheard a conversation yesterday which someone seemed to be implying that maybe we weren't inviting the wives. Of course, we're inviting you and your wives. The suggestion was that we might have some out of town guests from the Convention and we're really not going to be too strict on in-town guests, but in other words, out of town guests and your wives, of course, are invited. Then, committee meetings. I'd like to announce the following committee meetings. I'm sure that Style and Drafting is going to meet immediately upon adjournment. Isn't that right, Mr. Schiltz?

DELEGATE SCHILTZ: That's correct.

PRESIDENT GRAYBILL: And the administration committee, including the budget subcommittee, should meet in the Rules Committee room immediately after -- not after adjournment but after the adjournment of the meeting after adjournment, which I'll tell you about in a minute. So, in other words, we are going to meet when we break up here this morning. Mr. Murray, is the Rules room full of equipment or is it available?

DELEGATE MURRAY: Mr. President, I understood that they were going to do some interviewing in that room for the film so that it would not be available.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Let's move the administration committee meeting up to the Legislative Committee room, whatever that is -- four twenty-eight -- is that right? What's your room number up there, Mags?

DELEGATE AASHEIM: Four thirty-four.

PRESIDENT GRAYBILL: Anyway, the committee room. The administration committee meeting will be in the committee room upstairs, then, after adjournment. Now, the select committee on the ceremonies Friday will meet at one o'clock, did we say, Mr. Garlington?

DELEGATE GARLINGTON: Yes.

PRESIDENT GRAYBILL: One o'clock. That could meet in my office. There are only five of us. That will be fine. And the Voter Education Committee should meet this afternoon--on adjournment this afternoon, which at this time is not too clear. Now, to explain to you what I think the program for the day will be, Style and Drafting is working on a problem involving the ballot which may require debate at two P.M., this afternoon, so we are planning to recess the Convention until two P.M., this afternoon, while Style and Drafting completes their work and you probably should anticipate a debate on bicameral-unicameral aspects of some nature at two o'clock this afternoon. Then, between then -- or immediately now, what we would like to do is have our adjournment now until two P.M., but it has been suggested by a number of you, and especially

STATE PUBLISHING CO. HELENA, MONT.

by some of the members of the Voter Education Committee that it might be well to have a short discussion this morning of some of the aspects of what you are going to be up against in terms of meeting the public or talking about the Constitution when you get back to your home communities. In other words, we want to have a little bull session in which we talk about what we might want to do when we each get home, and we'll discuss what we know now of the voter -- or, of the kits we will give you -- so, immediately upon adjournment, those of you who are not involved in the Style and Drafting Committee meeting might wish to remain, and I am hopeful that the committee chairmen will be willing to discuss very briefly what they consider significant about their particular committee's contribution to the new Constitution. In other words, we'll have about forty-five minutes or an hour of discussion and then by eleven o'clock, we ought to be able to break up. Mr. Harbaugh has sent me a message. The answer, Mr. Harbaugh, would be the same as to Mr. Johnson, that you can take it up at the time the ballot is proposed. Very well, is there -- are there other announcements?

Mrs. Warden.

DELEGATE WARDEN: I would like to talk about two things, Mr. President. First, there may be one more issue of the daily clipping sheet. They are printing the Constitution downstairs and we are going to try to Xerox the copy today.

STATE PUBLISHING CO. HELENA, MONT.

If it works, fine, and if it doesn't, that will be it -- the one you got yesterday. The second thing is concerning the pictures that the highway department took. Two or three people have been to me, saying they got two copies of the wrong one and not the one that they ordered. Now, I don't know whether I can solve this problem or not because they, too, are in a bind because their crews are out on the road taking pictures and such things for the highway department, but if any of you have any problems, get them to me right after adjournment so that I can at least call and find out. It may be that they were put in the wrong packages but I will try to do what I can, but I don't promise miracles. Thank you.

PRESIDENT GRAYBILL: Mr. Dahood.

DELEGATE DAHOOD: Mr. President, I would like to announce a very brief meeting for the Bill of Rights Committee in the committee room immediately after adjournment.

PRESIDENT GRAYBILL: You mean after the second adjournment, don't you? You are going to stay and talk with us a few minutes, aren't you? I was counting on calling on you.

DELEGATE DAHOOD: Yes, Mr. President. Immediately after the second adjournment. Thank you.

PRESIDENT GRAYBILL: Thank you. All right, Mr. Eskildsen, may we have a motion until two?

DELEGATE ESKILDSEN: Mr. President, I move we stand

STATE PUBLISHING CO. HELENA, MONT.

in recess until two P.M., this day.

PRESIDENT GRAYBILL: The motion is to recess until two P.M., this day. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention in recess at 10:04 o'clock, A.M.)

STATE PUBLISHING CO. HELENA, MONT.

MONTANA CONSTITUTIONAL CONVENTION

FIFTY-FIRST DAY

Tuesday, March 21, 1972 — Convention Hall

2:10 o'clock, P.M. — Helena, Montana

PRESIDENT GRAYBILL: The Convention will be in order. Mr. Woodmansey, would you close the back doors for us, please? The Convention will be in order. Ladies and gentlemen, we will start at Order of Business Number One and proceed through in a moment, without objection, to Order of Business Number Ten. You recall that we recessed this morning until this hour in order to take care of the ballot proposal of Style and Drafting. Mr. Clerk, Reports of Standing Committees.

CLERK HANSON: (Reading) Mr. President, we, your Committee on Style, Drafting, Transition and Submission, having had referred to it Resolution Number Sixteen, that all articles be presented to separately on the ballot for a yes or no vote; that any alternate proposal will be presented separately for a yes or no vote; that in case any article fails to pass the election, then the provision under that department of the 1889 Constitution will be in effect, except as where it may conflict with the intent of any section of the adopted articles of the new Constitution which, thereby, will take precedence over the 1889 Constitutional provision, and having considered the same, report as follows: The Committee voted unanimously to reject

STATE PUBLISHING CO. HELENA, MONT.

the Resolution for the reasons that the proposed plan is entirely too cumbersome, that it would be unintelligible and confusing to the voters, unduly expensive, and received too late to implement. Signed, John M. Schiltz, Chairman, Style, Drafting, Transition and Submission. (End reading) Mr. President.

PRESIDENT GRAYBILL: Very well, the Chair will accept the Resolution and file it and, as we discussed this morning with Mr. Johnson, the matter may come up today when we discuss the ballot proposal by way of amendment. No, I'm not going to adopt or not. I'm just going to accept and file the committee report. Now, Mr. Clerk, what other reports of standing committees?

CLERK HANSON: (Reading) Mr. President, we, your Committee on Style, Drafting and Transition , herewith submits the proposed ballot for consideration by the Convention. Signed, Schiltz, chairman. (End reading) Mr. President.

PRESIDENT GRAYBILL: Very well, the adoption schedule which is now submitted by Style and Drafting is hereby referred to Order of Business Number Ten. Without objection, we will be on Order of Business Number Ten. Is there objection?

(No response)

PRESIDENT GRAYBILL: If not, Mr. Eskildsen, do you want to move?

DELEGATE ESKILDSEN: Mr. President, I move that the

STATE PUBLISHING CO. HELENA, MONT.

Convention resolve itself into Committee of the Whole for the purpose of handling business under general orders.

PRESIDENT GRAYBILL: The motion is to resolve this Convention into Committee of the Whole. All those in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Mr. Graybill in Chair of Committee of the Whole.)

CHAIRMAN GRAYBILL: Very well, members of the committee, we have before us on general orders the adoption schedule which -- and the transition schedule, the official ballot in three different versions, all of which are submitted by Style and Drafting. Now, it's my understanding that perhaps the best way to approach this subject is to have the Style and Drafting Committee explain what they have done here and then after their initial explanation and before debate, we will start and we will adopt -- or, we will read and adopt in the Committee of the Whole either the ballot or the adoption schedule or the translation schedule -- transition schedule. In other words, we'll proceed through and we'll debate it, but after the explanation. So, without objection, we will now turn the meetin

STATE PUBLISHING CO. HELENA, MONT.

over to Mr. Schiltz, who will explain first and when he has finished his explanation, we will then consider the matter before you.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman and Delegates. I think, Mr. Chairman, I would like to say that we might not be completely finished with the adoption schedule. We submitted it with the proposed ballot because we were hung up on the ballot. Now, the adoption schedule and the proposed ballot will come in with our final report tomorrow morning, if we get all these matters resolved, with the complete Constitution in connection with it. But, if that develops, I'm not prepared at this moment to do more than discuss the ballot problem, so perhaps we can take whether we finally pass it later.

CHAIRMAN GRAYBILL: Very well, you go ahead and we will start with the ballot proposition and then I'm sure the adoption schedule and the transition schedule can be discussed and dealt with later.

DELEGATE SCHILTZ: You all should have now on your desks what we call our adoption schedule. As I explained to the President, this will be attached to our final report. Now, the thing we are concerned with most are the three ballots that you will find on the back. First of all, you should be aware that in report number three, at page forty-eight, the Constitution of Montana authorizes the Convention to do three things:

STATE PUBLISHING CO. HELENA, MONT.

revise, alter or amend the Constitution. Now, the Convention, as provided in article nineteen, section eight, the Convention's revisions, alterations or amendments should be -- shall be submitted to the electors. Unless approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect. Now, section seventeen, sub nine, of the Enabling Act, the act under which we are operating, provides that if a majority of the electors voting at the special election held for the ratification of the Constitution shall vote for the proposals or that those -- if they shall vote for the proposals of the Convention, they shall then be adopted. Now, there are six lawyers on the Style and Drafting Committee and I am confident of the talent and ability of each one of them, and we are agreed that any choices that are put to the electors must prevail by a majority of those voting at the Constitutional Convention ratification election -- or, the Constitutional ratification election. Now, I want to make that very clear and I think I'll illustrate that on the blackboard, if I may.

(Delegate Schiltz illustrating at blackboard.)

DELEGATE SCHILTZ: Now, if you'll look at the blackboard, you'll see I've put up there, Constitution, by which I mean Constitution as a whole, the entire document. If two hundred thousand people vote on the Constitution, that will determine the number of votes cast at that election. Now, if

STATE PUBLISHING CO. HELENA, MONT.

we had alternate number one which had two choices and there were ninety-six thousand votes cast for the first choice and only ninety-four thousand cast for the second choice, neither one of them would carry. The first -- the ninety-six thousand vote wouldn't carry because, as we interpret the Enabling Act, it would require one hundred thousand and one votes in order for that proposition to be adopted as part of the Constitution. That, in a nutshell, is what our problem is. Now, bear in mind that Style and Drafting received the Legislative article from the Convention without any preference having been stated for either unicameral or bicameral. Now, if you will refer to the ballot on the back of the final report, the first ballot you come to, you will see that the first issue on the ballot, as much as I have put it up here, is for approval or disapproval of the entire Constitution, which contains both unicameral and bicameral sections, neither one having been adopted by the Convention. Now, the second issue on that ballot is whether the voter favors unicameral or bicameral. Now, if that were put out as that first ballot we drafted and as was more or less dictated by our having the Constitution with both of them in it, if that vote came out that way, then we would have neither unicameral or bicameral and we would be back to what we had in 1889, or the present Legislative article. Now, Style and Drafting sees the possibility, as I indicated, that neither one of those would pass and we would be back where

STATE PUBLISHING CO. HELENA, MONT.

we started. Accordingly, Style and Drafting came to the conclusion that one or the other, unicameral or bicameral, should go into the Constitution. In other words, this Convention should adopt one or the other of them, so that that one for sure is in the Constitution, and then submit to the voters which one they want, and if they achieve a sufficient number of votes, the one that's left out would replace the one that's in, but bear in mind that it must, under this example, to overcome the one that is in there, it must achieve one hundred thousand and one votes, according to our analysis and our interpretation of the Enabling Act. Now, there is one other option that we have and that's the third ballot -- would you turn that over, John? -- where instead of two -- yes -- now, that revised ballot number one is what some of the people are interested in -- in other words, they feel that if one goes in, that particular type of legislature has a definite edge in the balloting by the people, and so they would like to have one go in but nevertheless give the people two choices, one or the other. Now, if one of them -- in other words, that would put them on an equal basis in the choice department but not an equal basis in what is included in the Constitution itself. Now, the third ballot is one that would put one or the other in and only give the voter one choice -- Do you want to take it out or do you want to leave it in? Now, before I finish that explanation, and that's the extent of what I have to

STATE PUBLISHING CO. HELENA, MONT.

say, except that so far as the Style and Drafting Committee is concerned, the gambling proposition is on all fours with the legislative proposition. In other words, as we got the material from the floor, we were -- and you'll see that subsection ten, or whatever it is in the General Government, provides that both of them are in the Constitution, so that would put them in this same posture. Now, after you dispose of the legislative thing, I would hope that you would also dispose of the gambling proposition. We do conceive that we, as the Style and Drafting Committee, can choose which should go in in both instances, both legislative and gambling, but the legislative was such a vital thing that we chose not to do it but are going to be bound and guided by what you do on the floor. Now, the gambling proposition is not all that vital, in the view of the committee, and we, if you don't act, will select one or the other to put in the ballot -- or, to put in the Constitution, with the alternate to go on the ballot as a one-shot decision. Then you can reverse us if you want, but we'd rather that you did both of them. I want to call your attention to one other thing. The committee is unanimous that it does not want any more options put on the ballot. We feel that this is plenty. All your fears were ungrounded. We only have on the ballot what we were directed to put on the ballot, or which -- or what we must put on the ballot because we had no other choice. Thank you.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Very well, the Chair understands Mr. Schiltz to have said, on behalf of the Style and Drafting Committee, --

(Gaveling for order)

CHAIRMAN GRAYBILL: The Chair understands Mr. Schiltz to have said on behalf of the Style and Drafting Committee that they consider there to be a problem in the nature of the ballot. The Chair isn't going to explain this if we are going to sign books, so we're either going to listen or else let's quit signing the books until we've settled this. We have a serious problem here, and maybe I'm only explaining it to clear my own mind, but the Chair understands Mr. Schiltz to have said that the ballot problem is this. What they call official ballot has a flaw in it because, assuming we could get fifty-one percent on the first proposition, for or against the Constitution, if we put the unicameral and the gambling issue as clear cut alternatives, then each alternative must also get fifty-one percent -- at least one of the two must get fifty-one percent or we have nothing in the Constitution about unicameral and gambling. It doesn't matter too much on the abolition of the death penalty since there's nothing in there now and fifty-one percent would merely add something, so as I understand the Style and Drafting Committee's position, it doesn't like that proposal but that's a possibility. The second possibility, which they call revised ballot number one,

STATE PUBLISHING CO. HELENA, MONT.

has the effect of putting one proposition in the Constitution. Let's say the bicameral goes in the Constitution and the language down in three about the -- the language about gambling goes in the Constitution, namely, that there shall be no gambling, and then you put on the outside two propositions: (a) unicameral; (b) bicameral, and whichever one wins replaces what's in. Now, if the bicameral won on the outside and was already on the inside, it replaces itself and so the bicameral wins. If the unicameral wins, it would replace the bicameral, and obviously, we could reverse those and put unicameral in. In other words, we could put into the Constitution the language of one of the two of these proposals, and in the case of gambling, the language, there shall be no gambling, and then we could substitute by whether either of the two alternatives got fifty-one percent. The advantage of this kind of ballot is that bicameral and unicameral both appear and people get a choice between two differents, and on the gambling thing, they get a choice between two differents. Then, as I understand it, the third ballot again puts one of these propositions in. It either puts unicameral or bicameral in, and in the case of gambling, it would put in the language, there shall be no gambling, and then it puts the opposite one on the outside, and if it got fifty-one percent, it would replace. Now, the disadvantage of that is the one on the outside has, theoretically, less chance than the one in the body because people may

STATE PUBLISHING CO. HELENA, MONT.

vote for the main proposition and not vote on the lesser one. Then the fourth thing I understand them to have said is that they do not want any more options. Now, I'm not sure how they want us to proceed. There are, of course, other alternatives than have been presented here and we can discuss these alternatives. The Chair would have preferred to have an alternative and let you amend them, but the Style and Drafting people are concerned and want a discussion or want our advice on how to do this. The Chair has at least one idea of his own and I presume many of you do, too. Mr. Schiltz, is the Style and Drafting Committee prepared to move any one of these ballots as the ballot?

DELEGATE SCHILTZ: No, your Honor -- Mr. Chairman --

(Laughter)

CHAIRMAN GRAYBILL: You've fixed it so you and I can't go on the court, Mr. Schiltz.

(Laughter)

DELEGATE SCHILTZ: I tried to fix it so we could. In any case, we conceive the problem to be this, that if we had chosen one or the other of these, we would have had a debate tomorrow on the up or down of what we chose. So, in the interest of time, which is extremely tight, we asked the leadership if a debate could be scheduled so that we could get the sentiment of this Convention or this Committee before we did it so we'd eliminate that debate on Wednesday or Thursday,

STATE PUBLISHING CO. HELENA, MONT.

anticipating that it might involve some time. So, I don't want to move one or the other unless that would -- I certainly wouldn't move the one that we got hung up on.

CHAIRMAN GRAYBILL: Well, all right, I understand that the Style and Drafting Committee doesn't want to move any. I think the Chair will operate on this basis. We will open the matter for discussion; people may, if they care to, move them and we'll vote on them and dispose of them or amend them or come back to them as we please, and when we get through, we may or may not have some solution. Very well.

Mrs. Warden.

DELEGATE WARDEN: Mr. President, I would just like to say that I have looked through the first, second and third ballots, and as one who has worked in the polling places for several years, I would say that we'd better make it simple or we will have nothing but confusion because the first one is relatively simple -- I mean, a small amount of wordage. I think that's fine. I would like to see either the bicameral or the unicameral put into the Constitution, and I would prefer the unicameral, but I think we should make the wording on the voting as simple as possible because when you have too many words, people are confused. They don't like forms and they would rather not vote on something if it's too complicated.

CHAIRMAN GRAYBILL: Mr. Swanberg, you were up.

DELEGATE SWANBERG: I was wondering if we could

STATE PUBLISHING CO. HELENA, MONT.

have the Chair's idea? You indicated you had an idea. Do you care to disclose at this time or do you prefer to wait a while?

CHAIRMAN GRAYBILL: All right, I'll tell you what my idea is. It occurs to me that when people vote on proposition one, for or against the Constitution, that if we let people who vote No then vote on the other propositions, we are giving them a second shot that maybe they don't need. I think that we should say that if you vote Yes, you can vote on the others; and if you vote No, you can go home. It seems to me -- I understand that a lot of people don't like that, but either way you do it, one side gets an extra vote and I'd like to see the side get the extra vote that's voting for the Constitution. But, maybe that's unfair. But, in other words, if you did that -- you see, it doesn't make any difference if bicameral gets fifty-one percent of the votes if the Constitution, in fact, gets forty-nine. Once the Constitution is dead, it doesn't matter what happens down below. So, it seems to me we ought to make it a rule of our election, and I think we have that right, that you can vote for or against the Constitution and if you vote for the Constitution, then you may choose what you want on the other ones. Others may not agree, but that's my idea.

Mrs. Bugbee was up next.

DELEGATE BUGBEE: Mr. Chairman, I agree with Mrs. Warden very much. The thing that -- this is difficult to

STATE PUBLISHING CO. HELENA, MONT.

understand, but I think weighing difficult words versus difficult ideas is one thing that Style and Drafting and all of us have to take up. Now, I, for instance would like to go on record, I don't even like the word, abolishing. I don't think many people really know what that word means, and when you say for abolishing, you're talking -- for is a word for something and in the same word, you're having a word that is against something. I think that in itself is a confusing idea. And then, I think down -- and I'm on the official ballot, the first one, for allowing the legislature or the people to authorize gambling. This is a complex idea to have in a ballot, and I think overly complex, and it's a difficult one to weigh.

CHAIRMAN GRAYBILL: Mrs. Bugbee, I think your point is extremely well taken. I don't think, however, that Style and Drafting intends to imply that this is the wording they would suggest. I think -- am I wrong, Mr. Schiltz? You are trying to discuss a form and not the words?

DELEGATE SCHILTZ: That's right, at this moment. We welcome those ideas but I assume they would be changed tomorrow. The thing we are really interested in is which basic form they are interested in. Now, I just explained to Mrs. Warden behind me that certainly we aren't going to write opposite that box on, say, the second revised ballot either unicameral or bicameral. We're just going to put the Constitution

STATE PUBLISHING CO. HELENA, MONT.

in as it is, and that's only explanatory.

CHAIRMAN GRAYBILL: And there's been suggestions made that you use the one house and two house language, and so forth, so let's presume for the benefit of today's debate that we are going to clean this language up as we've cleaned all the rest of it and we are going to make it just as simple language-wise as possible. Let's not argue whether we're going to use against or for or abolish or anything, and let's argue the form. If we can decide on the form, at least Style and Drafting can go forward.

Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, this probably isn't going to come out this way in every case, but I notice on this first ballot, the leading ones here, which I think have a little advantage when they go into the polling booth -- will these be changed with alternate ballots -- so many hundred ballots run and then these will be rotated?

CHAIRMAN GRAYBILL: That's what should be done, Mr. Kamhoot. You're absolutely right. The ballots should not always be in the same form, I think, but that would be a matter for the Rules Committee to see that the secretary of state did.

DELEGATE KAMHOOT: Could I put a question to Delegate Schiltz, then?

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I yield.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE KAMHOOT: Yes, John. Is this your intent that these would be rotated every so many hundred ballots?

DELEGATE SCHILTZ: We didn't even consider that and that is a matter, as Mr. Graybill said, for the Rules Committee when they deal with the secretary of state. I would prefer that it -- personally, I would prefer that the most important things be at the first and that they stay that way on all ballots. I don't know what the law is on that. I do know that you must rotate candidates and I'm not sure that you rotate constitutional amendment provisions because the one on the bottom usually loses, so I would guess that that's not the law, but I haven't looked it up.

DELEGATE KAMHOOT: Well, Mr. Chairman, I would suggest here now, on these four proposals, looking down them, of course the first one, for the proposed Constitution, would probably have a little advantage, and this may be fine. I think we should all maybe feel that, but when you go to the next one, you have unicameral legislature first. I would think that the bicameral people would not like this too well, and you go to the third one and you have, for abolishing the death penalty. I would suppose that the ones who are not for that would not like this. And, then, as you go to the bottom one, of course, on gambling, you have the same situation. And, I find myself, outside of the first one, perhaps, I would feel that I was in the minority being on the last box there. Thank

STATE PUBLISHING CO. HELENA, MONT.

you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I think the Chair brought up a very fundamental question here that I think we should resolve before we decide anything farther, and that is the matter of people who vote against the proposed Constitution, whether or not they should have the right to vote on any of the other alternatives. It seems to me that the Chair would be in error there when he said that those who voted against the Constitution should not have the right to vote on the other propositions, because no matter, they will have to live with the Constitution if it is adopted. Consequently, they should have a right to vote on these other alternatives and, Mr. Chairman, if it is in order, in order to settle this, now, I shall so move, if my motion would be in order, Mr. Chairman.

CHAIRMAN GRAYBILL: I'm perfectly willing it be in order.

DELEGATE AASHEIM: That anyone who votes against the proposed Constitution should also have the right to vote on any of the other alternate proposals.

CHAIRMAN GRAYBILL: Mr. Aasheim has made a motion to the effect that those who oppose the Constitution -- that is, those who vote against the Constitution shall be allowed to vote on the other propositions nevertheless. Does that correctly state your proposition?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE AASHEIM: Yes.

CHAIRMAN GRAYBILL: Very well, is there discussion? Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I think, too, that we are going to have to permit this because some people may be more interested in voting on one of the alternate proposals, such as gambling or the death penalty, and this may upset them enough that they wouldn't vote for the Constitution. I was wondering, could I ask Delegate Schiltz a question about another matter on the ballot, or is that out of order now?

CHAIRMAN GRAYBILL: Well, we have a motion on the floor. I think we should stay fairly close to it, if it relates to this motion. Let's settle this matter. The only way we're going to get it settled is to start settling it.

DELEGATE BATES: O.K.

CHAIRMAN GRAYBILL: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, what documentation do you have for suggesting that we could use a solution such as you have offered. I know that Delegate Bates and Aasheim have indicated that they don't think it could be done.

CHAIRMAN GRAYBILL: Well, I think we have to get a majority. I agree with the committee that we have to get a majority on each proposition, but they have demonstrated that there are ways of stating the ballot so if you get a majority on the Constitution at all, you have a majority on some prop-

STATE PUBLISHING CO. HELENA, MONT.

ositions.

DELEGATE BLEND: I understand all of that.

CHAIRMAN GRAYBILL: Now, once you have that, my aim -- if you want to know my full aim -- my first aim is, I would like to adopt the Constitution; therefore, I want to encourage people to vote for the Constitution, and so I want to have the rule that in order to vote on these other funny little things, they have to play the game and vote for the Constitution. Now, that's my purpose or my reason. As far as my authority, it matters not, I don't think -- if nothing gets fifty-one percent down below -- if anything gets fifty or sixty or eighty percent down below and we haven't got fifty-one percent up above, it doesn't make a whoop of difference, and it seems to me that we are talking about what Mr. Holland was talking about the other day -- double-shotting it. At the present time we have a Constitution that does not allow gambling, so you could vote against the Constitution and then vote No on the gambling and you'd have two shots at not allowing gambling. I don't know, that seems to be somewhat offensive to me. I think if they voted against the Constitution they voted to not allow gambling and they shouldn't be allowed another shot at it in case the rest of us vote for it. They should have to vote for it in order to vote for the Constitution. Now, I'll grant you that that's a substantive rule of the game that this Convention would have adopted, and that even in spite of it, we would

STATE PUBLISHING CO. HELENA, MONT.

have to get fifty-one percent on all the propositions. But, if we got fifty-one percent on the ballot, then I would be in favor of one of the ballots which allows us, then, automatically to get one of the other propositions in, and I just think we'd have a better chance of passing the Constitution. I'm greedy, I guess.

DELEGATE BLEND: Well, it occurs to me that that would be the case if we knew that we were in the clear and could get a legislature. Thank you.

CHAIRMAN GRAYBILL: Now, the Chair would like to say one other thing. This has been a question directed to me and I am not going to try and monopolize this discussion, but I am going -- I would like to take the view today that I might participate in this argument. This seems to me to be a little different matter than the substance and I'm not going to monopolize it and everyone else can have their chance to speak, too, but please don't -- if anyone is offended by my doing this, why, I'll be glad to relinquish the Chair but otherwise, I'll just comment if someone asks.

Mr. Romney, you were up.

DELEGATE ROMNEY: Mr. Chairman, with respect your proposal, as I understand it the people would vote on the Constitution itself and those who voted No would not be permitted to vote on the other three proposals. Is that correct?

CHAIRMAN GRAYBILL: That's right.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ROMNEY: Now, if you had -- thank you, sir. Now, if the vote was close -- say a hundred and ten thousand voted for it and ninety thousand voted against it, the ninety thousand would then have no vote.

CHAIRMAN GRAYBILL: On what?

DELEGATE ROMNEY: The hundred and ten thousand would be voting on the other three propositions --

CHAIRMAN GRAYBILL: Right.

DELEGATE ROMNEY: -- and if they broke in the same proportion, what would be the situation with respect to getting the fifty-one percent under the Enabling Act?

CHAIRMAN GRAYBILL: I would use a form like ballot number one -- revised ballot number one -- which, in fact, places something in the Constitution so that when they voted for, they would have automatically voted for something.

DELEGATE ROMNEY: And that would be sufficient, you think?

CHAIRMAN GRAYBILL: Right. And then it would take fifty-one percent to take that out of there.

DELEGATE ROMNEY: That would take all -- would that take care of any legal hurdles?

CHAIRMAN GRAYBILL: Well, we've got as many lawyers on this as we have opinions. Let's see, Mr. Davis, I think you're next.

DELEGATE DAVIS: Mr. President, if I may digress,

STATE PUBLISHING CO. HELENA, MONT.

I am happy that you are participating in this and I may not have another opportunity, but I want to thank you for your leadership throughout this thing. On this particular issue, I most -- I have a very respectful concern. I, too, have thought for a long time the more issues you put on the ballot, you're inviting a double negative. In other words, a person will say, I'm against the Constitution and if something in the Constitution really concerns them, they're going to vote against it perhaps, and then they'll vote against -- they'll vote down below. But, on the other hand, when we started out here with the Bill of Rights and the right of people to disagree, the right of people to vote, the rights of minorities, this would be a minority that then would be deprived of their right to vote on these other issues just because they didn't prevail on the first. It seems to me, wouldn't we be getting into some sort of inconsistency? In other words, in our desire to pass the document, if we disenfranchise those people who disagree with us -- in other words, I should have the right that -- say I'm against the Constitution, but in the event the majority wants the Constitution, I should still have the right to be for or against the death penalty or unicameral or bicameral. It gives me a great deal of concern -- I'm happy there aren't more issues than this on the ballot and I was hopeful there wouldn't be this many, but it seems to me that we may be jockeying ourselves into a place where we are prevent-

STATE PUBLISHING CO. HELENA, MONT.

ing whatever the minority might be, assuming it is a minority, from voting on what, in effect, are constitutional amendments in three instances, because if you don't vote for the first one, then you're not able to participate and vote on the type of government you want to live under, even though the majority says, we want that Constitution, and I say I don't. But, if we do have it, I still want gambling in or out, the death penalty in or out, or still want the right to vote on the type of Constitution I live under. I think we've got a fundamental difference of opinion, and as I said at the outset, I think you've done a wonderful job -- which doesn't enter into this --and all of our leadership, and I'd like the record to show that I'm sure that's the consensus of everybody here. On this particular issue, I'm glad you got the ball started because someone had to, but it seems to me that we are getting around to the place where, in our desire to pass the document, we may be just disenfranchising a lot of people at the end that we were giving a lot of rights at the beginning that we are going to be taking away from them before we get through with the ball game.

CHAIRMAN GRAYBILL: Mr. Harper, I think you were next.

DELEGATE HARPER: Thank you. I think I agree with Carl on this. You have done a wonderful job, Mr. Chairman, and we appreciate it, but you might be stupid on this.

STATE PUBLISHING CO. HELENA, MONT.

(Laughter)

DELEGATE HARPER: That was the sense of --

CHAIRMAN GRAYBILL: You don't have to get permission to speak by telling me --

(Laughter)

DELEGATE HARPER: That reminds me of a good joke that I won't tell now. It might -- let me embroider on what Carl said. Carl said you might disenfranchise these people and I'm inclined to agree more with you on that, that if they have a chance to vote No, then they have made their choice. They are against the new Constitution, therefore they want to express their opinion. But, that sounds right -- but, listen to this. Why are we putting these things on the ballot? So that people will have a chance to vote for something different on the gambling issue, let's say, or for the same thing without having to vote for the old Constitution. That's it. So, when a person looks at that issue and he says -- he sees that you have to vote Yes for the new Constitution and you've got something in here that he doesn't want, on either side of this vital issue, like on gambling or like, say, the bicameral is in there or unicameral is in there and he doesn't want it, he is probably smart enough to know that no way is that alternative going to carry -- no way. Let's say the Constitution only carries by fifty-one percent. That would automatically mean that everybody who votes for the Constitution has to be

STATE PUBLISHING CO. HELENA, MONT.

for the alternative or the alternative couldn't carry because it wouldn't get a majority vote. Therefore, he figures out, I can't take a chance on voting -- allowing the gambling issue to be voted on, or I can't take a chance on allowing bicameral to slip out. You see, I have to vote against the Constitution. Now, I've probably muddied the water, but what I'm trying to get at is, the reason we put these things on the ballot is to give the people who would ordinarily be against the new Constitution a chance to vote No and still a chance to express themselves on these particular issues.

CHAIRMAN GRAYBILL: Mr. Jacobsen was next.

DELEGATE JACOBSEN: Mr. President, fellow Delegates, I don't know whether the committee has considered the fact that we should have, suggesting your revised ballot number one, on with an explanation at the top of the Constitution, whether we put bicameral or unicameral in it, and a brief explanation. That will be one ballot. Then we have another ballot, explanation on top, for replacing whichever one it is or against that. A third ballot for the gambling -- for gambling or against gambling. And the bottom one, the fourth ballot, for abolishing the death penalty or against. Now, in my experience in being a judge and so on in election booths a lot of times, whenever we have the issues and there is a separate ballot for a bond issue or a special improvement district or something like this, the people are given those bal-

STATE PUBLISHING CO. HELENA, MONT.

lots and they vote those ballots. They vote each one. This way, they would have four ballots to see and consider instead of -- then we would be sure that that ballot, for or against the Constitution, would have consideration and each of the others would be considered individually and independently. Very, very seldom did we ever find those special ballots where people did not mark them the way they felt. So, I think it would be a way -- it would cost a little more, maybe, for the printing of these ballots -- and really not, either. It could all be printed in one and cut in four pieces or however they do it, but I think that this is something that should be considered.

CHAIRMAN GRAYBILL: Mr. Driscoll.

DELEGATE DRISCOLL: We were sent here as elected representatives of the people to express the will of the people. We aren't doing it. The Chair has often stated from his position up there that this body can do anything it wishes. I think that we should present this Constitution to the people without any alternatives. If unicameral is more strong than bicameral, then we should present it in that manner. If we want the death penalty, that's the way it should be presented. We should present this thing to the people without any alternatives. We should take our job seriously as elected representatives of the people and do our job as it should be done. Now, how can I move that, Mr. Chairman?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Well, I think you can keep it in mind but I don't see how it has anything to do --

DELEGATE DRISCOLL: It has a lot to do with it.

CHAIRMAN GRAYBILL: Well, I suppose you're with me if you really believe that, because you're going to take all those other things off.

DELEGATE DRISCOLL: (Inaudible. Microphone not turned on) -- all out. I want everything out. I would be -- I'm a bicameralist but if the sense of this body is for a unicameral legislature, then I'd accept it. We accepted the Revenue and Finance article. We accepted the Education article. We accept everything.

CHAIRMAN GRAYBILL: Mr. Driscoll, we've got a proposition before us, namely, that those who oppose the Constitution should be allowed to vote on other proposals nevertheless. I think we've got to dispose of that. At least, I don't see that your proposition has anything to do with that. Now, I have another one up here to delete one of the proposals, which you might support simply as a step toward your proposal, and as soon as we have gotten rid of this one, I'd entertain a motion and we'd find out whether the body wants to have any alternatives or not, but let's see if we can't solve Mr. Aasheim's motion first and then we'll -- I've written your name down here -- and we'll remember you.

DELEGATE DRISCOLL: (Inaudible. Microphone not

STATE PUBLISHING CO. HELENA, MONT.

turned on.)

CHAIRMAN GRAYBILL: Pardon?

DELEGATE DRISCOLL: May I make that motion when the time comes?

CHAIRMAN GRAYBILL: Surely.

DELEGATE DRISCOLL: Thank you.

CHAIRMAN GRAYBILL: I think, Mrs. Bugbee, you're up again next.

DELEGATE BUGBEE: Thank you, Mr. Chairman. I am against Mr. Aasheim's motion for now because, taking the unicameral-bicameral argument, it seems to me that if someone votes against the Constitution they are voting for the old bicameral system, so, therefore, they really should not have the option to vote for the new bicameral or the unicameral. That's really giving them -- it's a three way choice, which I don't think is fair.

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Well, I rise in support of Delegate Aasheim's motion and against the Chair, I guess, but notwithstanding -- for this reason, it seems to me his point is perfectly valid but the further point, I don't see how you can practically do this. You destroy the secrecy of the ballot. You come in to vote, you have to announce how you're going to vote -- that you're going to vote for the Constitution before they will give you any of the other ballots, and it seems to

STATE PUBLISHING CO. HELENA, MONT.

me that would be completely impractical to do and you just couldn't do it.

CHAIRMAN GRAYBILL: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President, I speak in strong support of Delegate Aasheim's motion. I think we are going to need all the good support we can have from the public and I think -- I understand your position, but I think that you would defeat yourself because it would amount to poor public relations, and we all understand that if the main framework of the Constitution fails, the amendments automatically do, too, but this is a risk we have to take and it wouldn't be all lost, even at that, because it would serve as a very strong hint to future sessions of the legislature just how Montana citizens felt about each of these three ballots and I think it would still serve a useful purpose, but I don't believe that we could in any way deny the citizens the right to vote on the amendments, pro and con, and also on the main Constitution. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Will Delegate Schiltz yield to a question, please?

DELEGATE SCHILTZ: I yield.

DELEGATE REICHERT: Thank you. I have a copy of the Illinois ballot and I notice the last statement in the explanation is: The voter may vote on any of these propositions re-

STATE PUBLISHING CO. HELENA, MONT.

gardless of how a vote is cast on the proposed Constitution. Do you know why they did this in Illinois?

DELEGATE SCHILTZ: No, Mrs. Reichert, but we were -- at least, I was aware of that and looked at that ballot. This question -- this came up in the committee. Mr. Holland raised it last night and we decided that we didn't have enough legal research available to say that we could do that. We do not reject it or accept it, but I was aware that Illinois had that.

DELEGATE REICHERT: Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: I have some statistics from the Illinois election result and I think the most interesting factor is the one that reported that fifty seven thousand, one hundred and twenty-four persons voted for one or more alternate proposals, but did not vote at the top on the Yes or No issue for the new constitution, and I think that is an interesting factor. Mr. Chairman, there is one other question that I would like to ask Mr. Schiltz related to this ballot suggestion. The idea of the revised ballot number one appeals to me greatly because I think that this would give the voters the best choice, the kind of choice I think we have intimated we would give them, a clear cut choice between unicameral and bicameral, but in looking at this ballot, it looks so complicated. I think for the case of simplicity, let's just assume that bicameral is in our -- I almost choke on the words -- that bi-

STATE PUBLISHING CO. HELENA, MONT.

cameral is in the Constitution itself and then we would say for the alternate two-A, for replacing bicameral with unicameral. Rather simple. Two-B would be for retaining bicameral. Isn't that the way the ballot would look? I mean it wouldn't -- this looks so complicated, Mr. Schiltz. I understand why, because you don't know which is what, but wouldn't it be rather simple, actually -- I mean, Mrs. Warden brought up a good point. We hate to complicate, you know, the situation.

DELEGATE SCHILTZ: I yield, Mrs. Reichert.

(Laughter)

DELEGATE SCHILTZ: Yes, this was only done in this fashion, very hurriedly, to place before this Convention and this committee what the options are. This is not in final form. We'll arrange it so it's intelligible and very simple, if we once get the expression of the committee.

CHAIRMAN GRAYBILL: As a matter of fact, Mr. Schiltz, your ballot number one must be in error because you can't replace the one that's in with the one that's out, so you've got to say, for replacing -- on the number two-A and two-B, you've got to say, for replacing bicameral with unicameral or for leaving bicameral in. You can't have them both replaced. But, that's a minor matter.

Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman, I did not advance the proposition that the people who voted No on the Constitu-

STATE PUBLISHING CO. HELENA, MONT.

tion would not be able to vote on the lower -- on the side issues. The proposition I advanced the committee was, what we are faced with is, we are faced with the fact that a certain number -- say, two hundred thousand people vote on the first proposition where we would get a split of fifty-one to forty-nine percent, and then say ten percent less voted on the lower proposition -- we might have forty-eight to forty-seven percent. My proposition to the committee was that we should put a rule on that the ballot is void unless they vote on all four propositions. Thus, we wouldn't have the decreasing vote and if they vote for or against the Constitution but don't vote on the side issues, then the ballot is void. And if -- this would almost guarantee that we would not have this situation that we are afraid we'll run into where we'd have less than fifty percent for any one of the side issues. Now, that was my proposition. The idea of the committee was, they weren't sure whether this would -- how this -- whether we could do this or not. No one cited any authority or gave any particular reason. The point was, we are in a bind. We weren't sure we would be right. I would suggest upon what we are talking about, about forbidding people to vote, almost surely we would be open to a question on that. We'd run into tremendously bad publicity in the newspapers which might create a backlash which would -- the people thinking they were being forbidden to vote unless they voted in favor of the Con-

STATE PUBLISHING CO. HELENA, MONT.

stitution would lead them to vote against the Constitution or not come out at all. And, the third thing is that if we restrict the voting on the side issues to only those who vote for the Constitution and we lock in one choice up above, there is just no way that the side issues could get fifty percent, and I heartily endorse what Mr. Driscoll has said, that if we are going to come to anything like that, we should get busy. We are the elected representatives -- get busy and let the voters know what we want and have no side issues at all.

CHAIRMAN GRAYBILL: Mrs. Mansfield.

DELEGATE MANSFIELD: Mr. Chairman, in other states that have failed, having only the two propositions, for or against -- for instance Maryland failed on one particular instance where they said that the sheriffs were being deleted from the Constitution so they have a campaign and voted for the -- against the Constitution, and I believe that if they have your plan of for or against, then they may vote on these other issues. In our -- I know that many of the Delegates while they were campaigning were asked this by the constituents in their districts -- what if we were opposed to some particular thing? And, of course, our answer was, the only way this could be remedied would be to have it on the side ballot. Thank you, Mr. President.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: Would Mr. Aasheim yield to a

STATE PUBLISHING CO. HELENA, MONT.

question?

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I yield.

DELEGATE HARBAUGH: It seems to me that maybe we're getting the cart before the horse, Mags, with your motion and I wonder if there is a sense of feeling in this body that they do want us to delete some of the alternatives from the ballot, that if we ought not to deal with that question first and then come back to the issue of how to vote, because it may be that by the time we're through with it, there won't be any alternatives to vote on. I doubt that that will happen but it's a possibility and what I would like to ask you is if you would consider withdrawing your motion -- at least temporarily -- until we could work our way through some of these, and I have a motion at the Clerk's desk if you would put that.

DELEGATE AASHEIM: Mr. Harbaugh, before I answer your question, will you yield to a question?

DELEGATE HARBAUGH: Yes.

DELEGATE AASHEIM: What is your motion?

DELEGATE HARBAUGH: My motion is to remove one of the items from the ballot, namely, the death penalty issue.

DELEGATE AASHEIM: I see. Now, may I answer Mr. Harbaugh?

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I think we should determine this

STATE PUBLISHING CO. HELENA, MONT.

now and if we decide later we have made a poor decision, we can always go back and reconsider -- that is, if you vote favorably on my motion -- because I feel that it is very important to know how we're going to put these propositions on the ballot, whether or not the negative people can vote on the alternates, because if the negative people cannot vote I think all the alternates are dead because I'm not so sure that we're going to get the Constitution adopted -- maybe by a fifty-five to forty-five -- I mean, let's assume that we have fifty-five thousand for and forty-five thousand against the Constitution. You see, if you eliminate those forty-five thousand people to vote on the alternates, you would have a very difficult time to get any proposition -- to get the majority of the votes, so that's the reason I say we should decide this now and if we make an error we can always reconsider.

DELEGATE HARBAUGH: Thank you. I assume his answer is No.

CHAIRMAN GRAYBILL: I think it is, Mr. Harbaugh.

(Laughter)

CHAIRMAN GRAYBILL: Mr. Aasheim, will you yield to a question?

DELEGATE AASHEIM: I will.

CHAIRMAN GRAYBILL: I may join you later but I think it's important that we discuss this carefully because

STATE PUBLISHING CO. HELENA, MONT.

I think it does condition everybody's mind to think about the real problem, and I can see that you don't understand my side of it. For example, Mr. Aasheim, if you adopted ballot number two -- or, revised ballot number one -- then the Constitution itself would have, for instance, bicameral in it, a prohibition against gambling in it, and nothing about the death penalty in it. And if it got fifty-one percent of the votes, it would have automatically carried those three propositions. Do you follow me?

DELEGATE AASHEIM: Yes.

CHAIRMAN GRAYBILL: So, there's no possibility that some decision isn't going to be reached on these if, in fact, you adopt the Constitution. Now, don't misunderstand me. I'm not so sure that's a good argument for my side but it might clear up your thinking about my side. Do you understand?

DELEGATE AASHEIM: Yes, I understand and I understand the problems. If you -- if we -- may I answer now?

CHAIRMAN GRAYBILL: Yes.

DELEGATE AASHEIM: That if we do this, the alternate is dead. There's no use having it on the ballot. It's a Hobson's choice because there's no chance of the alternate carrying at all, and I do believe that --

CHAIRMAN GRAYBILL: In other words, it's the alternate that you think is dead.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE AASHEIM: The alternate is dead if you do that.

CHAIRMAN GRAYBILL: Mrs. Eck has been up quite a while.

DELEGATE ECK: Mr. Chairman, really I was going to say about what Delegate Aasheim just said, and that is, you know, suppose you got as many as sixty percent of the voters who voted for it and then you would have to have of that sixty percent, you would have to have, you know, almost unanimously. You would have to have eighty or ninety percent. My math is not that good -- in order to get any one of the alternates on the ballot. Now, I can see a possibility, only I think maybe it's too late to consider now. I mean, I think that what Delegate had to -- was considering was the fact that we are either voting for the new Constitution or we are voting for the old Constitution. If we are voting for the old Constitution, then why should we be allowed to amend the new Constitution? Now, we could have considered the possibility of making these alternates down here more as amendments which would apply to either the new Constitution or the old Constitution, which would mean that we would get a good either -- a good bicameral or a good unicameral, along with the old Constitution, and they could say something about the death penalty or about gambling, but I think that no one is expecting it to come this way and I wouldn't even really want to consider it, but I thi

STATE PUBLISHING CO. HELENA, MONT.

that if we went for -- I really think we would be misleading people if we put it out and said you have to vote for the proposed Constitution in order to vote for the alternates because, really, the alternates practically wouldn't have a chance. Thank you.

CHAIRMAN GRAYBILL: Very well. Now, the proposition is on Mr. Aasheim's motion that those who oppose the Constitution shall be allowed to vote on other propositions nevertheless, and before you speak, Mrs. Bates, the Chair would like to say that the Chair is persuaded that Mrs. Eck's and Mr. Aasheim's point that alternatives would have a difficult time is probably valid, and the Chair is also persuaded that Mr. Davis' point -- I think he made this point -- is perhaps even more valid and that is a sense in which as many people might vote for the new Constitution -- no, let's see -- there's a sense in which as many people might vote -- yes -- vote for the new Constitution as against it, just to realize that if they don't, none of those propositions is going to be adopted, so the Chair is about to switch his mind and would be glad to support Mr. Aasheim's position, but if there are those who want to come to my defense, we'll hear them.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman, as far as having two strikes against it, you could also have two votes for it. If you had the bicameral in the body of the article in the Con-

STATE PUBLISHING CO. HELENA, MONT.

stitution and again on the proposition. So, this goes either way. I had another suggestion and I don't know if it's possible. They said we were all-powerful. If we wanted to put these alternates -- I don't know if it's possible, but usually doesn't an amendment just take a simple majority? A Constitutional amendment? What if these were put on the -- the alternates put on in such a form on the regular ballot, rather than on the Constitution itself -- and this might -- and I don't know if it's possible, but if we are as all-powerful as a body as I've heard stated here, it might be possible. Also, I wanted to say that Mr. Holland is ready to go to Australia with me because there they force them to vote. You have to vote --

(Laughter)

DELEGATE BATES: And, so, I guess -- one more thing while I'm up here, on proposition two, here, the example, I think that rather than having for replacing one system over the other, there should always be an opportunity to vote either yes or no on any proposition, and that would be my suggestion.

CHAIRMAN GRAYBILL: Very well, the question is on Mr. Aasheim's motion. Does anyone else care to discuss it -- Mr. Aasheim's motion.

Mr. Wilson.

DELEGATE WILSON: Thank you, Mr. President. I have to agree with Mr. Aasheim. I don't think you can disenfranch-

STATE PUBLISHING CO. HELENA, MONT.

ise anyone from the privilege of voting, and if we assumed your proposition, this is just exactly what we're doing. And, to further emphasize that, we're destroying the secret ballot, as has been brought out here before. I think we have to give everyone the right to exercise this privilege of being able to vote on any question that's on the ballot, either for or against. If we get over this hurdle, I would have a suggestion to make that might clarify this, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman, I'd like to make a substitute motion for all motions pending. Am I in order?

CHAIRMAN GRAYBILL: I don't know. I don't know what you're going to move.

(Laughter)

DELEGATE JOHNSON: I'd like to move for a proposition that would take us completely out of all this trouble and I move that the delegation consider my proposal as a ballot that's on your desks. All articles will be presented separately for a yes or no vote and any alternate proposals will be presented separately for a yes or no vote.

CHAIRMAN GRAYBILL: All right, well, I'm not against taking that along with Mr. Driscoll's but I think we're about ready. I haven't heard anyone support me yet and if you'll all just quit voting, we might -- or talking, we might be able to vote this one down and settle this one, in case we go this

STATE PUBLISHING CO. HELENA, MONT.

way. It seems to me that if I allow yours, I've got to allow Driscoll's and three or four other propositions, including Harbaugh's, and I don't mind, but let's settle this issue, and Mrs. Payne says she supports me.

DELEGATE JOHNSON: Very well.

DELEGATE PAYNE: Mr. Chairman, I rise to support you because we have been discussing this, and to answer Mr. Joyce, there is a way to do this. When we vote in a primary, we vote -- they give us two ballots, a Democrat and a Republican -- and those of us who are Republicans take the Republican ballot and dispose of the Democratic ballot. We could do it the same way with this because we could take the -- those of us who are for the new Constitution could just take that ballot and then we would have these choices to vote on.

CHAIRMAN GRAYBILL: Mrs. Robinson.

DELEGATE ROBINSON: Mr. Graybill, I support your motion but didn't want to speak on it for fear you might lose it, but another way, in answer to Mr. Joyce's question, another way it can be done is, you know, if you simply state if you're voting against the Constitution you do not vote on those other issues. The same thing happens when you have other ballots and when you are supposed to vote for five candidates and you end up voting for six, the ballot is void. There are, you know, all kinds of ways that not following instructions can be handled.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Cate.

DELEGATE CATE: Mr. Chairman, I support the Chair and I'm not exactly sure why, but there's a very practical matter that I think deserves some consideration here. Looking at the first official ballot, the person who votes against the proposed Constitution is also going to go down the line -- I mean, if he's permitted to vote on these other alternatives -- and he's going to vote, probably, for a bicameral legislature because that's what he voted for above; he's probably going to vote against abolishing the death penalty, because that is what he voted for above, and he's probably going to vote against the legislature authorizing gambling because that is what he voted for above, and so those people who are for a unicameral legislature wouldn't stand a chance because the vote of the people for the Constitution is going to be split on that issue. Those people who are for abolishing the death penalty wouldn't stand a chance because those people who are for the proposed Constitution will be split, and likewise on the gambling issue. So, as a practical matter, what you are going to have is a Constitution with a bicameral legislature without abolishing the death penalty and without authorizing gambling if you let the negatives vote. That's what's going to happen, so we might just as well put in a Constitution that has those propositions in it and forget about alternatives if that's what we're going to do -- if we're going to let the

TE
NG CO.
MONT.
3

negatives vote.

CHAIRMAN GRAYBILL: Mr. James.

DELEGATE JAMES: Mr. Chairman, I'd like to speak in support of Mags Aasheim. I think his motion is in the spirit of the new Bill of Rights, the right of participation. The public shall have the right to expect governmental agencies to afford every feasible opportunity for citizen participation on the operation of the government prior to the final decision. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: Thank you, Mr. Chairman. I am going to have to resist the motion because, as the story of the boy that went up to the wise man and had his hands cupped and he said, is what I have in my hand dead or alive? The wise man said, I think that lies within your hands. I think we have the answer to this lying right on our desks here. It has been here all the time. This was clearly provided by the Enabling Act that permitted this Constitutional Convention, is that all of these items can be put on the ballot one at a time, each section. It's in our Enabling Act and that's the Johnson amendment, resolution number sixteen. I think that interlocking of one section to another might be much easier to work out and more fairly. You'd stand a better chance of getting all the things that you do want in the new Constitution that we do not have in our present Constitution. Maybe

STATE PUBLISHING CO. HELENA, MONT.

the answer would lie there, is to put these items -- I think Mrs. Eck came quite close to it, and Mrs. Bates -- that with these side items, why not put them all, section by section. We clearly can do this. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, the question is on Mr. Aasheim's motion. Do you want to close, Mr. Aasheim?

DELEGATE AASHEIM: Yes, Mr. Chairman. I would like to advise Mr. Kamhoot that if we adopt my amendment you can still vote for Mr. Johnson's amendment. It wouldn't matter at all. But, let me make one thing clear again. Assuming there were one hundred thousand people voting on the Constitution, for or against it. We are not going to have a very big majority for it, I'm quite certain. Suppose sixty thousand vote for it. Now, then, to go down on the alternate, you've got to have fifty-one thousand votes for the alternate and that's going to be pretty hard, out of sixty thousand voters, to get fifty-one thousand voters for either unicameral or bicameral, either on all these other propositions -- you have to have fifty-one thousand out of sixty thousand votes -- so that's why I'm urging that we get these negative votes down here voting also in the hopes they will vote positively on one of these alternate propositions. I think it's a must, or the alternate proposals are dead.

CHAIRMAN GRAYBILL: Mr. -- we are ready to vote. Do you want a roll call vote?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE AASHEIM: Yes.

CHAIRMAN GRAYBILL: All right. So many as shall be in favor of Mr. Aasheim's motion, vote Aye; so many as are opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim	-	Aye	Bowman	-	Absent
Anderson, J.H.	-	Aye	Brazier	-	Aye
Anderson, O.	-	Aye	Brown	-	Aye
Arbanas	-	Aye	Bugbee	-	Nay
Arness	-	Aye	Burkhardt	-	Aye
Aronow	-	Aye	Cain	-	Aye
Artz	-	Aye	Campbell	-	Excused
Ask	-	Aye	Cate	-	Nay
Babcock	-	Aye	Champoux	-	Aye
Barnard	-	Aye	Choate	-	Aye
Bates	-	Aye	Conover	-	Aye
Belcher	-	Aye	Cross	-	Aye
Berg	-	Aye	Dahood	-	Aye
Berthelson	-	Aye	Davis	-	Aye
Blaylock	-	Aye	Delaney	-	Aye
Blend	-	Nay	Driscoll	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Drum	-	Aye	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Aye
Eskildsen	-	Aye	Manoney	-	Nay
Etchart	-	Aye	Mansfield	-	Nay
Felt	-	Aye	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Absent	McKeon	-	Aye
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Absent
Hanson, R.	-	Aye	Murray	-	Nay
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Aye
Harper	-	Aye	Payne	-	Nay
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Aye
Holland	-	Aye	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Nay
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Nay
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Nay	Rygg	-	Absent
Kelleher	-	Aye	Scanlin	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Schiltz	-	Aye	Toole	-	Excused
Siderius	-	Aye	Van Buskirk	-	Aye
Simon	-	Aye	Vermillion	-	Absent
Skari	-	Aye	Wagner	-	Aye
Sparks	-	Nay	Ward	-	Absent
Speer	-	Aye	Warden	-	Aye
Studer	-	Absent	Wilson	-	Aye
Sullivan	-	Aye	Woodmansey	-	Aye
Swanberg	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. Chairman, eighty Delegates voting Aye, eleven voting No.

CHAIRMAN GRAYBILL: Eighty Delegates having voted Aye and eleven No, Mr. Aasheim's proposition prevails and we are going to let everybody vote on everything. Now, the Chair would recognize Mr. Harbaugh, who was the first one up here with a proposal.

DELEGATE HARBAUGH: Maybe it would be -- in the interests of saving some time -- if I yielded to Mr. Driscoll and we could decide his motion which -- or does he have a motion? Mr. Driscoll --

CHAIRMAN GRAYBILL: Yes, I think I could, but I think it might be in the interests of time to do it your way.

DELEGATE HARBAUGH: All right, I'll put my motion then, if you would like to read it.

CHAIRMAN GRAYBILL: Mr. Harbaugh's motion is that

STATE PUBLISHING CO. HELENA, MONT.

we move to suspend the rules to reconsider the placing of the capital punishment question on the ballot in an alternative form. In other words, we have now directed Style and Drafting to place capital punishment on the ballot. He is moving to suspend the rules. If the suspension of the rules were allowed, and the specific purpose of his suspension is to pass a motion to the effect that we not place capital punishment on the ballot. In other words, he wants to reverse that action. If we suspended the rules and if we reconsidered and if we did reverse it, we would take capital punishment off the ballot as an alternative. You understand that there's nothing in the Constitution now prohibiting capital punishment and the alternative is to be on the outside so that it could be put in, and this would eliminate that possibility of its being put in. Now, have I correctly stated your motion, Mr. Harbaugh?

DELEGATE HARBAUGH: Yes, Mr. Chairman, and if I might just speak to the motion to suspend the rules for just a moment. I think that there has been plenty of discussion and debate here to demonstrate that there are some serious reservations about having a long list of things, as I think we have on this ballot as side issues, and that they would be very important for us at this stage to reconsider. At least, this one issue as to whether or not it should be placed on the ballot, and if we could get reconsideration on this, I

STATE PUBLISHING CO. HELENA, MONT.

would speak to it.

CHAIRMAN GRAYBILL: Is there other discussion of the motion to suspend the rules?

Mr. Arbanas.

DELEGATE ARBANAS: Mr. Chairman, fellow Delegates, I would like to enter the issue. I'm sure you know where I stand on it. I would like to talk just about the matter of having an alternate or not. I think I would have to attest to you that, at least personally, on this issue, the death penalty, there is a tremendous amount of voter interest expressed that has been expressed to me personally and through the press and various other means and I think that while I can understand the -- Mr. Driscoll's motion with regard to just the straight thing. Let's take our position, that's it. I think there is an advantage to the voter interest on some issues. I think this is the kind of thing that people -- they are not going to discuss most of our issues on the street corner -- you know, where people really stand around and fight with eachother and get very interested. They are going to fight about these three issues, though, you know. For them it might become more of an issue than the Constitution. I also think there is something to be said about taking away at least the illusion of being manipulated -- you know, where you have just this one choice to make and that's it -- all or nothing type of thing. I think that there's something to be

STATE PUBLISHING CO. HELENA, MONT.

said there, that having some minor choices within the Constitution will take away that illusion of it's all set and I either take it or lose it. Thank you.

CHAIRMAN GRAYBILL: Is there other discussion?

Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman, I want to point out to the Convention that what the committee on Style and Drafting was worried about was on side issue number one, and that is whether we have a unicameral or a bicameral. What we feared is that we would have less than a majority for either one of these propositions. Thus, we might wind up with a vote for the proposed Constitution without a legislature. Now, if such a thing happened, I don't have the foggiest notion of how the government would proceed. We come down to the death penalty and we come down to the gambling, we don't have the same crucial item. For instance, if neither three-A or three-B for abolishing the death penalty or against abolishing the death penalty gets less than fifty-one percent, it doesn't mean a thing to the Constitution. We still have a functioning Constitution. The same way with the fourth proposition. Four-A, four-B, against gambling or for gambling, if either one gets fifty-one percent we don't have any worries at all. We've still got a functioning Constitution. The only way we can get into a jackpot is if the first proposition -- that is, if the first side issue, the unicameral or the bicameral, fails. That

STATE PUBLISHING CO. HELENA, MONT.

is where this Constitution can get into indescribable trouble. And we get down here to the death penalty, it would seem to me in the Reverend's motion to take it out, it doesn't mean a thing at all because if the voters don't vote to take it out then it's going to be automatically eliminated. We are not going to have any abolition of the death penalty anyhow. So, if we don't get fifty-one percent, it doesn't mean a thing in the world. I realize that he has made his motion and I'm not going to make another motion to interfere with it, but I'd like to point out to the body, we've got to get down to proposition number two and decide what to do about this legislative thing because that's where we are in trouble, and whether or not we knock out the death penalty at this spot doesn't mean a thing because it would leave it in and whether it got a majority or didn't get a majority, we'd still have the same old Constitution.

CHAIRMAN GRAYBILL: Is there other discussion?

Mr. Wilson.

DELEGATE WILSON: Mr. President, would Mr. Schiltz yield to a question?

DELEGATE SCHILTZ: I yield.

DELEGATE WILSON: I'm sort of at a loss here, Jack, listening to the discussion. A vote against the Constitution, you say, leaves us without any legislative body. Wouldn't it be your thinking that if the proposed Constitution fails, we

STATE PUBLISHING CO. HELENA, MONT.

revert back to the present Constitution?

DELEGATE SCHILTZ: My answer, Mr. Wilson, is that we could cover it in the transition and say that if -- that's what Illinois did about the -- they submitted not the bicameral and unicameral, but the question of whether there should be single member districts or the old running at large business, and they said that if that issue fails, then they go back to the original Constitution and we could cover that in the same way. But, it's our feeling -- it's the feeling of the Style and Drafting Committee that there was a genuine interest in the house, or in the chamber, in having a new and revised legislature that met once a year and that had a little more -- well, it had different numbers, for one thing and it had a little more flexibility for extra sessions or special sessions, and that we certainly -- the reaction that we got from the debate was that they would not want to go back to the 1889 system, that one of these two propositions should go in so we do have an improved legislature. But, the short answer is yes. In transition we could cover it so if one of them failed we would be back to the '89.

DELEGATE WILSON: Well, then, I submit that with a little drafting change, this would be possible and we wouldn't be without a legislative body, however desirous we are of the improved one. This is what we are talking about here. We are talking about a new Constitution that has these different

STATE PUBLISHING CO. HELENA, MONT.

changes in it, and it does have the changed legislative article and it has several other articles that are changed, but if we don't adopt them, we go back to the old, or the present Constitution.

CHAIRMAN GRAYBILL: Now, Mr. Wilson, the Chair fell asleep up here but I think we've gotten far from the motion to suspend the rules, so if you have anything further to say about the motion to suspend the rules, we'll hear it.

DELEGATE WILSON: I would be against suspending the rules, Mr. Chairman. We debated at length on this the other day and if we open it up again, I can see where we'll be debating for many, many hours further. I'm against suspending the rules.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Harbaugh's motion to suspend the rules to consider the matter of capital punishment proposed amendment. Is there other discussion of the suspension of the rules?

Mr. Champoux.

DELEGATE CHAMPOUX: I am also against suspending the rules. I think in this day and age we hear a lot about participatory democracies, and the people have sent us here -- yes, and we do represent the people -- but here's an opportunity to get the people involved directly in things that we are all quite unsure of. I imagine when we see these votes, they are going to be so close that is it really going to tell? And

STATE PUBLISHING CO. HELENA, MONT.

this is a really good opportunity to get the people involved, have them know that we are concerned about them and their views, and therefore I think that we should keep these -- find some way of keeping these alternatives on the ballot, and I don't think that there are that many of them, personally. I am against suspending the rules for that.

CHAIRMAN GRAYBILL: Very well, the issue is on suspension of the rules on Mr. Harbaugh's motion so that we can deal with the issue of whether or not to remove capital punishment. Do you need to close on the suspension or argument?

DELEGATE HARBAUGH: I would like to ask for a roll call vote --

CHAIRMAN GRAYBILL: Right.

DELEGATE HARBAUGH: And I would like to point out that when we voted on this first, the vote was forty-eight to forty-two on the proposed language that Mr. Arbanas proposed, and it seems to me that if the public splits in anywhere near the same proportion, there is absolutely no possibility of the death penalty issue being decided one way or another on the ballot.

CHAIRMAN GRAYBILL: The Chair would like to observe it's going to be decided one way or the other but it might not be decided affirmatively.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I was just discussing

STATE PUBLISHING CO. HELENA, MONT.

this again and I was wondering if it would be possible to include the same -- like we have in the old Constitution -- in the new as far as the death penalty and gambling --

CHAIRMAN GRAYBILL: All right --

DELEGATE BATES: -- are concerned.

CHAIRMAN GRAYBILL: -- but, Mrs. Bates, you are not on the subject.

DELEGATE BATES: Yes, I am. Just a minute.

CHAIRMAN GRAYBILL: No, you can make a new motion to suspend the rules for a broader purpose, but Mr. Harbaugh's purpose is to suspend the rules for the purpose of then on reconsideration taking this away from the ballot proposition and you're now suggesting we add something else to the Constitution.

DELEGATE BATES: I realize this, and then if you included the old wording in it, then you could vote in the general election -- save these for the general election as an amendment -- which would only then require a simple majority on both of these issues, which would be a --

CHAIRMAN GRAYBILL: Mrs. Bates, --

DELEGATE BATES: -- possibility.

CHAIRMAN GRAYBILL: -- you mentioned that possibility a while ago and the Chair hasn't researched it, but we would either have to follow the present constitutional method of getting a constitutional amendment on, which I think is im-

STATE PUBLISHING CO. HELENA, MONT.

possible at this stage of the game, or we would have to wait until this Constitution is adopted and go with the new ones. But, I know that somebody on the General Government -- Mr. Etchart, you can't -- there's no such thing as a constitutional -- is there a constitutional amendment by initiative? Doesn't the legislature have to propose it first?

DELEGATE ETCHART: At the present time it has to be proposed by the legislature, but we have in the new Constitution, we have it by initiative.

CHAIRMAN GRAYBILL: All right. So, Mrs. Bates, unless you could get to the next legislature and persuade them to put it on the ballot for the second time around, I don't think it is going to work. Now, the issue is on Mr. Harbaugh's motion to suspend the rules. He has asked for a roll call vote. All those in favor of suspending the rules, vote Aye. All those opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim - Nay	Arbanas - Nay
Anderson, J. H. - Nay	Arness - Aye
Anderson, O. - Nay	Aronow - Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Artz	-	Nay	Driscoll	-	Aye
2	Ask	-	Nay	Drum	-	Nay
3	Babcock	-	Nay	Eck	-	Aye
4	Barnard	-	Nay	Erdmann	-	Nay
5	Bates	-	Nay	Eskildsen	-	Absent
6	Belcher	-	Nay	Etchart	-	Aye
7	Berg	-	Aye	Felt	-	Nay
8	Berthelson	-	Nay	Foster	-	Nay
9	Blaylock	-	Nay	Furlong	-	Nay
10	Blend	-	Nay	Garlington	-	Absent
11	Bowman	-	Nay	Gysler	-	Nay
12	Brazier	-	Aye	Habedank	-	Nay
13	Brown	-	Nay	Hanson, R. S.	-	Nay
14	Bugbee	-	Aye	Hanson, R.	-	Nay
15	Burkhardt	-	Nay	Harbaugh	-	Aye
16	Cain	-	Nay	Harlow	-	Nay
17	Campbell	-	Excused	Harper	-	Nay
18	Cate	-	Nay	Harrington	-	Nay
19	Champoux	-	Nay	Heliker	-	Nay
20	Choate	-	Nay	Holland	-	Nay
21	Conover	-	Nay	Jacobsen	-	Nay
22	Cross	-	Nay	James	-	Nay
23	Dahood	-	Nay	Johnson	-	Nay
24	Davis	-	Nay	Joyce	-	Nay
25	Delaney	-	Aye	Kamhoot	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

Kelleher	-	Aye		Rollins	-	Nay	
Leuthold	-	Nay		Romney	-	Nay	
Loendorf	-	Absent		Rygg	-	Aye	
Lorello	-	Nay		Scanlin	-	Nay	
Mahoney	-	Absent		Schiltz	-	Nay	
Mansfield	-	Nay		Siderius	-	Nay	
Martin	-	Nay		Simon	-	Nay	
McCarvel	-	Nay		Skari	-	Nay	
McDonough	-	Nay		Sparks	-	Nay	
McKeon	-	Nay		Speer	-	Nay	
McNeil	-	Nay		Studer	-	Absent	
Melvin	-	Nay		Sullivan	-	Nay	
Monroe	-	Absent		Swanberg	-	Nay	
Murray	-	Nay		Toole	-	Excused	
Noble	-	Nay		Van Buskirk	-	Nay	
Nutting	-	Nay		Vermillion	-	Nay	
Payne	-	Aye		Wagner	-	Nay	
Pemberton	-	Nay		Ward	-	Absent	
Rebal	-	Nay		Warden	-	Nay	
Reichert	-	Nay		Wilson	-	Nay	
Robinson	-	Nay		Woodmansey	-	Nay	
Roeder	-	Nay		Mr. Chairman	-	Nay	

CLERK HANSON: Mr. Chairman, twelve Delegates voting Aye, seventy-eight voting No.

CHAIRMAN GRAYBILL: Very well, twelve Delegates

STATE PUBLISHING CO. HELENA, MONT.

voting Aye and seventy-eight voting No, we have decided not to suspend the rules for the purpose of removing capital punishment. Now, Mr. Driscoll, I realize that your proposition is similar to that but it is broader. If you want to put it, we'll debate it, or if you want to hold it, we'll wait.

DELEGATE DRISCOLL: No, I would like to put it, Mr. Chairman. I don't think it requires any debate. I would ask for an immediate vote. I would move to suspend the rules for the limited and express purpose of presenting the Constitution to the electorate with no alternatives. I don't think it calls for a great deal of debate. Just pass it and we'll get rid of the unicameral.

(Laughter)

CHAIRMAN GRAYBILL: Well, the Chair observes that if we adopt it, we'd still have to find out which one went in, but I suppose we could do that. Very well, Mr. Driscoll has proposed to suspend the rules in such a manner that we could remove all three alternatives to the ballot. That involves the Legislative article, the Bill of Rights article, and the General Government article, but we could suspend the rules to so do that. Is there discussion of the motion to suspend the rules?

Mr. Kelleher.

DELEGATE KELLEHER: Speaking only on the motion to

STATE PUBLISHING CO. HELENA, MONT.

suspend, in our committee we debated this entire whole area six hours yesterday afternoon and last night, and without going into detail about the fact that those who want gambling may get a lot of their proponents to get in there and vote for gambling and get the vote so heavy there that the Constitution itself could fail. Of course, they might not realize that the gambling fails, too, but they still might vote for gambling and not the Constitution and cause it to fail. And after we visited with our committee this morning and after listening to many arguments from many wise people -- not just lawyers, but wise people -- non-lawyers -- I am inclined to go along with Mr. Driscoll. I think that this is probably the only safe way of doing it. I am afraid that playing this numbers game that anything below the original Constitution is going to fail. It's going to have to have a tremendous majority. In Illinois, over fifty thousand people voted on the alternates and did not vote on the Constitution. And, on their legislative article, two hundred and forty-six thousand did not vote on the legislative article and it just barely carried. They just -- they gambled -- but they had the old constitution to go back on and we don't, and our consultant -- I'm not going to talk -- maybe Mr. Schiltz would like to address himself to this -- but our consultant said it would be a terrific job to try to figure out, if both unicameral and bicameral fail and we went back to the old Constitution, we'd

STATE PUBLISHING CO. HELENA, MONT.

have to decide which articles are affected. You know, we didn't follow the same order in the new Constitution and this would be a terrific problem.

CHAIRMAN GRAYBILL: Is there other discussion of the motion to suspend?

Mr. Schiltz.

DELEGATE SCHILTZ: Well, I -- it isn't directly on that but a question was more or less directed to me and I feel I should say Mr. Cromwell does not take a legal position with our committee in any respect. I think what Mr. Kelleher was talking about was whether or not we put in the constitutional proposal that Mrs. Reichert had that there be several alternatives, and we tried to pick what would stay in in the old Constitution and be added to that and he did address himself to that.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman, may I direct an inquiry to the Chair?

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE HOLLAND: Is the sense of Mr. Driscoll's motion that if we suspend the rules for the purpose of considering removing all of these alternatives from the ballot that we also can do any of the intermediate steps -- that is, if the rules are suspended we can retain some, keep some, and modify some?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: The Chair would rule that he is proposing to suspend the rules, which does involve the Bill of Rights, because, simply, that's the one to which we tacked the proposal to put capital punishment on the ballot, the Legislative and the General Government, but only for the purpose of putting in or out those three -- that is, only for the purpose of handling the problem of the ballot alternative. Now, I realize that in the General Government and Bill of Rights that's pretty easy, but I agree with you that in the Legislative, that's pretty tough because I don't know how you decide that issue without coming to the other proposition, namely, which does go in.

DELEGATE HOLLAND: Well, my inquiry is this. If the rules are suspended for this purpose and the body decides to take one of these alternatives on the Legislative and put it in with the other alternative to the side, would this be in order under the suspension of the rules proposed by the motion of Mr. Driscoll?

CHAIRMAN GRAYBILL: I would think what would be in order is, we would then go -- let's take the easy one first -- to Bill of Rights and we decide all over again what we just decided on Mr. Harbaugh, and we'd decide to do it or not to do it, and then we'd go to General Government and we'd decide whether to put -- we've got the language -- we'd decide whether to put language in -- see, we've got the language, there shall

STATE PUBLISHING CO. HELENA, MONT.

be no gambling -- that's in both of them. We'd decide whether to put the language, except by the legislature and the people, in or to throw it away. And then we'd go back to the other and I don't think we'd have to debate unicameral and bicameral individually, but I think we would then have to decide whether we're going to put unicameral or bicameral on the ballot because you can't have a -- you can't do away with the alternatives while you've still got both of them in the pot.

DELEGATE HOLLAND: May I make a substitute motion to suspend the rules?

CHAIRMAN GRAYBILL: Well, I'll hear it. I don't know if you can make one.

DELEGATE HOLLAND: All right. I'll make a substitute motion to suspend the rules for the purposes of considering the entire question of the three side issues on the ballot, namely, the unicameral or bicameral question, the death penalty question, and the gambling question, to consider whether we should accept them as they are, modify them in any particular, or to completely remove them from the ballot. In other words, so we can fully discuss all of the various -- fully discuss and vote and make motions upon all of the various alternatives that are open to us as a Committee of the Whole.

CHAIRMAN GRAYBILL: All right, Holland's motion -- substitute motion -- is to suspend the rules regarding these three areas--that is, the three areas that are now the ballot

STATE PUBLISHING CO. HELENA, MONT.

alternatives. But, in addition to just removing them, which was the word Mr. Driscoll used, Mr. Holland wants to enlarge the suspension so we may remove, modify, or otherwise deal with -- is that what you said?

DELEGATE HOLLAND: Yes. Otherwise -- modify or otherwise rearrange or deal with the three subjects.

CHAIRMAN GRAYBILL: I think otherwise deal with covers it.

DELEGATE HOLLAND: All right.

CHAIRMAN GRAYBILL: In other words, we'll be able to do anything we want with those three areas, in addition to remove. We can remove, modify, or otherwise deal with those three areas if we adopt your proposal. Is that what you're proposing?

DELEGATE HOLLAND: That's my proposal, Mr. Chairman.

CHAIRMAN GRAYBILL: That's Mr. Holland's proposal.

DELEGATE HOLLAND: Mr. Chairman, I make this motion not to interfere with Mr. Driscoll's motion but to include that in. It would seem to me the sense of the body, from the addresses made to the body this afternoon, that something must be done. Just what it is, I'm not sure the body has made up its mind but I think at this time we should suspend the rules so we can do what we have to do, whatever the body has in mind, and if we do suspend the rules at this time for this purpose, we can then attack the problem and solve it in the manner the

STATE PUBLISHING CO. HELENA, MONT.

majority wishes to do so.

CHAIRMAN GRAYBILL: All right, now, the Chair wishes to caution the body that in the Chair's opinion you can arrange a ballot in some form under Style and Drafting's proposal without doing this. I don't think that we are at any impasse, Mr. Holland, and I don't think we should lead them to believe that. But, I'm perfectly willing to put the motion.

Mr. Harper.

DELEGATE HARPER: Mr. Chairman, I'd like to resist both of these motions for now. I don't think we've discussed all the different things we could do. For example, I have yet to be convinced that we could not write a legislative article that had everything in it. We did this in committee on purpose so that everything was exactly the same in almost every section. Only the sections you would vote on would be, shall it be unicameral or bicameral, and if the unicameral did not pass and the bicameral did not pass, you would fall back on that much of the present Constitution, which is bicameral, which could be, I think, as far as I can see, fitted in at every point but you'd have the big bulk of your Legislative article and you'd have -- we could set up kind of a -- the kind of a choice that we want to on the ballot without losing it all. And there may be other suggestions. I don't think we need to throw in the sponge yet. I think we can work out a good ballot.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, this is just a suggestion. Has anyone thought about having three boxes with do you prefer at the top, vote for one -- the old Constitution, the new Constitution with a unicameral, or the old Constitution with the -- or, the new Constitution with a bicameral?

CHAIRMAN GRAYBILL: Mrs. Babcock, if none of them got fifty-one percent, are we out?

(Laughter)

CHAIRMAN GRAYBILL: Mr. Drum.

DELEGATE DRUM: Mr. Chairman, I also rise to resist Mr. Holland's motion. It would seem to me that we are going to have to be specific. He said in an earlier statement that the big hangup is on the placement of the unicameral-bicameral and I think if we're going to suspend the rules, we should suspend it for the purpose of discussing, debating and deciding upon one issue at a time, because you can see the discussions here -- one man is up on the death penalty and the next one is up on the bicameral or the unicameral and it's a little hard for the Chair to stay abreast of what is happening. Now, about a month ago, I remember discussing with some of the legislative people and at that time they talked with the Chair that at some point this body was going to take a vote on unicameral versus bicameral. I, for one, am not nervous about either way. I think the state of Montana is going to go ahead

STATE PUBLISHING CO. HELENA, MONT.

and we're going to have a good state with either system of government. But, I don't see how we can go to the people without ever having taken a vote on either bicameral or unicameral and I would like to remind the Chair and Mr. Aasheim that at that time we were assured that there would be a vote taken by this body, and it would look to me like, at this point, the body should take a vote and the one that gets the most votes would go into the Constitution and the one that gets the least votes would become the alternate, and we could move on and then move on to these other two issues on the ballot. So, therefore I oppose Mr. Holland and make a substitute motion that we vote on bicameral and unicameral. The majority that wins the majority -- the issue that wins the majority will be the one that is placed in the Constitution.

CHAIRMAN GRAYBILL: Now, wait a minute, Mr. Drum. I liked everything you said until that last. Can't we decide this issue and I'll come back to you if you want to, but let's vote on these. If we don't vote on these things before we make substitute motions, we're in real trouble. We don't know what we think.

DELEGATE DRUM: I bow to the wisdom of the Chair and I withdraw my motion.

CHAIRMAN GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. Chairman, I don't like to delay this thing any longer but I rise to resist the motion to

STATE PUBLISHING CO. HELENA, MONT.

suspend the rules and the motion to put the various articles on the ballot in the alternative. I think that we're just rehashing the entire thing by suspending the rules and I think it is absolutely impossible to follow the -- from a practical standpoint and a drafting standpoint within the limitations of time we have set upon ourselves, to do what Mr. Johnson would like to do. And, I submit that the revised ballot number two, for example only, which is the last one that we have from Style and Drafting, is the most practical alternative and that we should decide bicameral or unicameral is the issue to be placed in the Constitution and proceed with this matter.

CHAIRMAN GRAYBILL: Very well, the issue, however, is on Mr. Holland's motion to suspend the rules so that we can remove, modify, or otherwise deal with all three ballot alternatives.

Mr. Holland.

DELEGATE HOLLAND: Mr. Chairman, regarding suspending the rules, I didn't want to make any change but I just wanted to do -- there's no -- in my opinion, the -- or in the opinion of Style and Drafting, ballots number two and number three are substantive changes, which would require suspension of the rules and this body reconsidering them. My purpose in moving for suspension of the rules was so we could start taking on the issues that Mr. Drum has just raised, one by one. And, my reason for rising to suspend the rules for the whole

STATE PUBLISHING CO. HELENA, MONT.

thing was so we wouldn't have to keep suspending the rules every ten minutes. Now, it's my impression, and you can ask for Mr. Schiltz if there is any difficulty, that we can't consider ballot number two without suspending the rules because it amounts to substantive changes, which the Style and Drafting can't recommend to this body without a suspension of the rules and reconsidering the whole item. I made the motion only to save time and lay the whole thing out on the table so we can start taking motions to handle the difficulty we are in.

CHAIRMAN GRAYBILL: Well, Mr. Holland, maybe I should speak to that. The Chair does not take that same view. The Chair takes the view that Style and Drafting has the substantive right to propose a ballot form and whether it's the best or only is another matter, and I'm certainly going to rule that Style and Drafting has a perfect right to suggest either one, two or three, and I don't think that requires any suspension of the rules. Style and Drafting has a substantive right to propose a ballot alternative. Now, if Style and Drafting had proposed only unicameral-bicameral and gambling and had proposed dropping abolition, that might have required a change because we have already told them these three things, but the Chair is going to rule that we can go on any one of these three or any other ones that Style and Drafting proposes as long as they give us three ways to in some fashion present some kind of an alternative. But, I don't mind putting your

STATE PUBLISHING CO. HELENA, MONT. 3

motion anyway.

DELEGATE HOLLAND: My point, Mr. Chairman, is that ballot number two inherently requires that we have to suspend the rules in all three subdivisions in order to comply with ballot number two.

CHAIRMAN GRAYBILL: Are you talking about -- let's talk about -- you talking about revised ballot number two, which is really number three?

DELEGATE HOLLAND: Let me take a look again. Yes. In order to adopt number two, we would have to -- we would have to get -- we would have to suspend the rules to have the body determine whether or not they want to put unicameral or bicameral up into the body of the proposition.

CHAIRMAN GRAYBILL: Well, the Chair takes an entirely different view of that. I think that you people are a substantive committee for proposing the ballot and you do have to propose some form of alternative, but if you propose number three, we can debate it and we can amend it without suspending the rules. We don't have to do -- this body has certainly not in any way indicated to your committee, and the committee made it quite clear we weren't supposed to, the detailed method by which this alternative is going to be presented. That's up to you to come back with. My only real difficulty with your committee is that you've come back with nothing yet and you've just asked us to help you. But, I mean, once you decide which

STATE PUBLISHING CO. HELENA, MONT.

one you're going to propose, we'll debate it. And if you don't decide pretty soon, we're liable to debate it anyway and decide it.

DELEGATE HOLLAND: (Inaudible. Microphone not turned on.) -- probably yield to Mr. Schiltz, but it was my -- it was the understanding in my sense of the -- what I understood happened in the committee, while the form could be proposed by the Style and Drafting, picking the unicameral or bicameral to put up in the body would be a change that this body itself would have to do, and that's why I moved for suspension of the rules.

CHAIRMAN GRAYBILL: Well, but this body wants you -- if Style and Drafting will just take the bull by the horns, like the poor Rules Committee does every day, and propose one or the other, this body will make short work of deciding which one they want. They'll either put that one or amend it and put the other one. But, you see, at the moment you haven't given us anything except an alternative ballot. So, I don't agree with you that we have to wait -- or, that we have to suspend the rules to do this ballot business, but I'm perfectly willing to suspend the rules for what I think Mr. Driscoll's purpose is, namely, to do away with those ballot alternatives. Isn't that right, Mr. Driscoll?

DELEGATE DRISCOLL: (Inaudible. Microphone not turned on.)

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Driscoll's proposal is to do away with them, and that's what he said -- remove. Now, you said remove, modify, or otherwise deal with, and we can either put yours or you can withdraw it. It doesn't make any difference, and we'll decide it one way or the other. But, if we decide for yours, I'm sure Mr. Driscoll's motion is going to be to remove them. Now, is there other discussion about Mr. Holland's motion to remove, modify, or otherwise deal with?

(No response)

CHAIRMAN GRAYBILL: Very well, I'll put that question. All right, all in favor of Mr. Holland's motion to remove -- to suspend the rules so that we can remove, modify, or otherwise deal with the three ballot alternatives, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: All right, it's defeated. Now, we're back on Mr. Driscoll's. Is there any more discussion of Mr. Driscoll's, which is to suspend the rules for the pure and only purpose of removing those alternatives, either all together or one-two-three?

Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman, I close and ask for a roll call vote.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Very well. All right. Very well, all in favor of Mr. Driscoll's motion to suspend the rules so that we may remove the three alternatives, or one, two or three of them, vote Aye; those opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim - Nay	Blend - Nay
Anderson, J. H. - Nay	Bowman - Nay
Anderson, O. - Nay	Brazier - Aye
Arbanas - Nay	Brown - Absent
Arness - Absent	Bugbee - Nay
Aronow - Nay	Burkhardt - Nay
Artz - Nay	Cain - Absent
Ask - Nay	Campbell - Excused
Babcock - Nay	Cate - Nay
Barnard - Aye	Champoux - Nay
Bates - Nay	Choate - Nay
Belcher - Aye	Conover - Nay
Berg - Aye	Cross - Nay
Berthelson - Nay	Dahood - Nay
Blaylock - Nay	Davis - Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Delaney	-	Aye	Kamhoot	-	Nay
2	Driscoll	-	Aye	Kelleher	-	Aye
3	Drum	-	Aye	Leuthold	-	Nay
4	Eck	-	Nay	Loendorf	-	Nay
5	Erdmann	-	Nay	Lorello	-	Aye
6	Eskildsen	-	Aye	Mahoney	-	Aye
7	Etchart	-	Aye	Mansfield	-	Nay
8	Felt	-	Nay	Martin	-	Nay
9	Foster	-	Nay	McCarvel	-	Nay
10	Furlong	-	Nay	McDonough	-	Nay
11	Garlington	-	Nay	McKeon	-	Nay
12	Gysler	-	Aye	McNeil	-	Aye
13	Habedank	-	Nay	Melvin	-	Nay
14	Hanson, R. S.	-	Nay	Monroe	-	Aye
15	Hanson, R.	-	Nay	Murray	-	Nay
16	Harbaugh	-	Aye	Noble	-	Nay
17	Harlow	-	Nay	Nutting	-	Aye
18	Harper	-	Nay	Payne	-	Aye
19	Harrington	-	Nay	Pemberton	-	Nay
20	Heliker	-	Nay	Rebal	-	Aye
21	Holland	-	Aye	Reichert	-	Nay
22	Jacobsen	-	Nay	Robinson	-	Nay
23	James	-	Nay	Roeder	-	Aye
24	Johnson	-	Nay	Rollins	-	Aye
25	Joyce	-	Nay	Romney	-	Nay

STATE
PUBLISHING CO.
HELENA, MONT.

Rygg	-	Aye	Swanberg	-	Nay
Scanlin	-	Nay	Toole	-	Excused
Schiltz	-	Nay	Van Buskirk	-	Nay
Siderius	-	Nay	Vermillion	-	Nay
Simon	-	Nay	Wagner	-	Nay
Skari	-	Nay	Ward	-	Aye
Sparks	-	Nay	Warden	-	Nay
Speer	-	Nay	Wilson	-	Nay
Studer	-	Nay	Woodmansey	-	Nay
Sullivan	-	Nay	Mr. Chairman	-	Nay

CLERK HANSON: Mr. Chairman, twenty-four Delegates voting Aye, seventy-one voting No.

CHAIRMAN GRAYBILL: Very well, twenty-four having voted Aye and seventy-one voted No, Mr. Driscoll's motion is defeated. Now, Mr. Drum, you are on my list --

(Laughter)

CHAIRMAN GRAYBILL: Mr. Drum, I have two lists. Don't worry.

(Laughter)

CHAIRMAN GRAYBILL: Mr. Johnson had a motion and he wanted to make it a while ago and I think I should let him have a chance next. We've got to get these things either decided or out of the way.

Mr. Johnson.

DELEGATE JOHNSON: Mr. President, thank you. Ladies

STATE PUBLISHING CO. HELENA, MONT.

and gentlemen, you all have my proposition on your desks. It was made out in the form of a resolution to start with but the Chair has agreed to let me present it as an amendment or a motion, and that's what I have done. Now, the sense of this would be the ballot would be presented -- on the ballot would be presented all articles separately for a Yes or No vote, and also the alternative proposals would be presented in the same manner for a Yes or No vote. This would be a very simple way to present it. There would be no question what they were voting for or voting on, as long as they had read -- and which they'd have to do in any case, familiarize themselves with the content. Now, this is perfectly O.K. under the Enabling Act. I know it would take a lot of time and work on the part of the Style and Drafting Committee, and I am sorry about this. I wish that some of us had discussed this two months ago -- well, the whole program for that matter, on how we were going to put it on the ballot and had decided at that time. We would not have had this difficulty at this time, but I -- unfortunately, that wasn't the case, so now the problem comes up. It would certainly cost a little money probably for the Style and Drafting to work this out and a few days after the rest of us had left here, probably. I don't know just exactly how tough the mechanics would be, but I have it on good advice from several people that are supposed to know these things, that this is very possible and legal in all aspects. I would

STATE PUBLISHING CO. HELENA, MONT.

like to point out, since there are going to be some differences if the -- or, overlapping conflicts, I should say. In case one of the articles or more should fail in the election, our present Constitution article would have to take over in that department and there would be some overlapping. This would be the hardest problem to contend with, but they're not impossible. I'm sure of that. It would take some time. Now, for instance, on the radio today -- there were several people who heard this guy discuss it at noon, that the United States supreme court has struck out the one year residency requirement in Tennessee, and that's going to cover all the rest of the states, apparently, and that makes our own that we just passed last week obsolete, and so there's probably going to be some more of this. There seems to be an awful lot of legislation going on in the U. S. supreme court and other state supreme courts that we're going to have to contend with, so there are going to be quite a number of these changes or overlapping conflicts of meaning and intent. Now, you know, we are going to have to live with this new Constitution if it's accepted for possibly a long time, seventy or eighty years -- maybe fifty, the way things are traveling so fast now -- but it should be a good long time and I think that whatever little extra time it takes or expense, we should be willing to abide by it. We want a good Constitution. There isn't a person here who doesn't, and I'm willing to sacrifice a little more time,

STATE PUBLISHING CO. HELENA, MONT.

and if it would fall on me, of course, in this particular point, it would be the Style and Drafting as I see it that would take the brunt of it, and I'm sorry for that but I can't help it. Well, I think that's probably all I have to say, Mr. Chairman, and thank you very much. Thank you, ladies and gentlemen, for listening.

CHAIRMAN GRAYBILL: Very well, those of you who have Mr. Johnson's resolution sixteen before you, the Chair will take it's the sense of his motion that the material presented on lines twenty-three to twenty-six is his motion, namely, that the ballot be drawn in such a manner that all articles will be presented separately for a Yes or No vote, and all alternative proposals will be presented separately for a Yes or No vote. Is there discussion of Mr. Johnson's proposal?

Mr. Champoux.

DELEGATE CHAMPOUX: The only thing I'm interested in at this point -- it's an intriguing idea -- however, somewhere back in my reading, I think I heard that this method has been used a number of times and it failed quite frequently. Does anybody have the research on this? Does anyone -- can they pull it out of their head or --? Have we got any research on it?

CHAIRMAN GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. Chairman, I don't know where

STATE PUBLISHING CO. HELENA, MONT.

it has failed. I only know where it has succeeded, and that was in Pennsylvania, but Pennsylvania had a limited convention and not an unlimited convention, such as we had, and I understand that they only had five propositions in the form of amendments on the ballot, but they were of this nature as he is suggesting. Nobody else that I know of has submitted it this way that has been successful.

CHAIRMAN GRAYBILL: Mrs. Blend.

DELEGATE BLEND: Mr. Chairman, as Mr. -- Delegate Johnson spoke, I tried to visualize what would happen in the voting booth. In the first place, each registered voter will receive a complete detailed copy of this proposed Constitution with explanatory comments beneath it, and this will be in two colors. Now, supposedly, one would read this and digest it and make decisions at home or in the company of friends. Now, if one were to go through the proposed Constitution at the voting place, it would occur to me that each individual could spend possibly up to an hour doing this. I wonder if they thought that the proposed detail would be at the voting place if they would ever look at the copy they received at home. I think it would take us weeks to vote if we were to follow such a proposition. I can't believe that a voter, when they got through the first third or half of it, would be inclined to go on because of the time that it was taking. It might solve a problem for the Delegates here today, but I don't think

STATE PUBLISHING CO. HELENA, MONT.

it would solve a problem for the voters or that it would bring out a better -- fifty-one percentage of vote on each section of the proposed Constitution, and I therefore would not be in favor of Mr. Johnson's motion. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Warden.

DELEGATE WARDEN: Mr. President, there is no way that the average voter would go through and take the time that would be necessary on this. I have found many times that when we've even had three amendments on the ballot, they will look at them and say, that's too many, and I would strongly urge that we defeat the motion of Mr. Johnson's.

CHAIRMAN GRAYBILL: Mr. Romney, you were up.

DELEGATE ROMNEY: Mr. Chairman, I wanted to answer a question made by Delegate Champoux, but I guess he's left the floor. As I understand it, the state of Hawaii also used this method and had twenty-two or twenty-three sections and they passed most of them but not all. The argument was that Hawaii being a new state and having adopted a constitution a few years previously was ripe for such a use of the amendment system. Now, there's no question but what our Constitution presently provides for use of the amendment system. It's rather a shame that it is advanced at this time because of the situation where many items would be out of place, and if some of them should be defeated, there might not be any way of handling them, such as the Chairman indicated this morning with

STATE PUBLISHING CO. HELENA, MONT.

respect to the veto of the governor, and I don't know just how that could be handled, although perhaps the Committee on Style might be able to figure it out. I do think that this would have been a splendid way of handling it but at the present time, I'm afraid that it won't work.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Johnson's proposal that we present each article and alternative for a Yes-No vote separately.

Mr. Wilson.

DELEGATE WILSON: Mr. President, I think it is the concern of all of us here that we have several articles in our proposed document that we would like to see passed. Some of us have some reservations on some of the other articles. I think this is one method where you can get the desirable features in the new document passed by the people. It may be that they could be put on the ballot as committee proposals and cover each -- it wouldn't have to be each section -- and possibly these methods could be explored, for a shorter form of putting it on the ballot, but I think this is one of the more desirable features of Mr. Johnson's proposal, that there is several articles in the proposed new document that I'm sure the people want and would like to have. There is some that there's quite a little question on, and that they may turn down the whole document for the same specific reason that these are included in the whole article. I think that Mr. Johnson's

STATE PUBLISHING CO. HELENA, MONT.

motion has a lot of merit if there's any way of approaching it.

CHAIRMAN GRAYBILL: Very well, the issue is on -- Mr. Kamhoot, do you want to talk?

DELEGATE KAMHOOT: Very briefly. Mr. President.

CHAIRMAN GRAYBILL: Very well.

DELEGATE KAMHOOT: There has been quite a lot of resistance to this on the -- by using the evidence that there would be too much on the ballot. I would question this because we just decided in this Convention that there would be an unlimited number of amendments that would be permitted on the ballot in the future, so what would be the difference -- talking about thirteen now, or thirteen or fifteen or twenty some time in the future on our ballot, so I don't think this has much validity. I don't see why that each one of these sections must be printed in its entirety, as has been suggested, when certainly the people who are going to vote for this Constitution or against it are not going to have the whole Constitution printed on their ballot, so they're not going to read it that way, so why would they necessarily have to read all of article by article? Why couldn't they brief themselves beforehand, as they must do when they go to the polls to vote on this situation as we have it here. So, it seems like if it could possibly be correlated between one article and the other that we really should follow this route. Thank you, Mr. Chairman.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Artz.

DELEGATE ARTZ: Would Mr. Johnson yield to a question?

CHAIRMAN GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: I yield.

DELEGATE ARTZ: This morning, Torrey, there was some discussion that possibly it would be impossible to correlate the new and the old in case a certain sections were voted down if we follow your system. Have you researched that out and do you have competent legal authority to say that that can be done?

DELEGATE JOHNSON: Thank you, Bill. Yes, I did -- well, I talked with the attorney general about this and he said it could be done. It would be a hard job, though, he said. It's hard. Everybody knows here it's hard. I was advised that before I went down and talked to him. Of course, here -- there are lawyers here and they've all said the same thing except several of them here didn't want to admit that this could be done. They said it was too difficult, and it would be difficult. However, probably the most difficult thing would be just the case that Mr. President brought up here this morning when we were discussing this, in the field of the veto, which, if the Executive article were taken out, it would leave us without a veto power there for a little while until something -- which is difficult procedure. But, the mechanics

STATE PUBLISHING CO. HELENA, MONT.

of it can be handled. I was assured of this and I'm convinced and I still think it's a very good proposition. Thank you. I didn't mean to talk all day on the answer, Bill.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Yes. I assume everybody is aware of this, but it isn't quite that simple, I don't think, Torrey. Let's put the case this way. Let's say the new legislative article passes and the new executive article fails. The new legislative article, to use your point of the veto, says that the governor shall not have a pocket veto and the old executive article says he does. Now, the people have just voted at the same instant for both of these. Now, then, what court could possibly say which one the people meant? And this is only -- this is just one instance of the interlocking of these many sections that we've done. I think that when we decided that we would write a new Constitution and not follow the exact outline of the old, we set ourselves to the kind of proposition that we have to make on the ballot.

CHAIRMAN GRAYBILL: Mr. Johnson.

DELEGATE JOHNSON: Mr. Chairman, if I -- I think I can answer that, just to ease the tension just a little bit. George, in the -- we have statutes, you know, that we are running on most of the time anyway and those are in effect and would be in effect until you could determine the proper procedures there of taking care of this, and in any case, where

STATE PUBLISHING CO. HELENA, MONT.

there is no overlapping conflict, what the people voted for in the new proposal -- the new proposed Constitution -- would take precedence over anything said in the present Constitution. Thank you.

CHAIRMAN GRAYBILL: Very well, now, the issue is on Mr. Johnson's motion that the ballot be drawn in such a manner that all articles would be presented separately for a Yes-No vote, and all alternative proposals would be presented separately for a Yes-No vote. I trust that we are going to have a roll call vote. All in favor of Mr. Johnson's proposal vote Aye, and all opposed vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, we'll take the ballot.

Aasheim	-	Nay	Babcock	-	Aye
Anderson, J. H.	-	Nay	Barnard	-	Aye
Anderson, O.	-	Nay	Bates	-	Aye
Arbanas	-	Nay	Belcher	-	Nay
Arness	-	Nay	Berg	-	Nay
Aronow	-	Nay	Berthelson	-	Nay
Artz	-	Aye	Blaylock	-	Nay
Ask	-	Nay	Blend	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

Bowman	-	Nay	Gysler	-	Aye
Brazier	-	Nay	Habedank	-	Aye
Brown	-	Absent	Hanson, R. S.	-	Aye
Bugbee	-	Nay	Hanson, R.	-	Aye
Burkhardt	-	Nay	Harbaugh	-	Nay
Cain	-	Nay	Harlow	-	Nay
Campbell	-	Excused	Harper	-	Nay
Cate	-	Absent	Harrington	-	Nay
Champoux	-	Nay	Heliker	-	Nay
Choate	-	Nay	Holland	-	Absent
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Nay	James	-	Absent
Dahood	-	Absent	Johnson	-	Aye
Davis	-	Aye	Joyce	-	Nay
Delaney	-	Nay	Kamhoot	-	Aye
Driscoll	-	Nay	Kelleher	-	Absent
Drum	-	Nay	Leuthold	-	Nay
Eck	-	Nay	Loendorf	-	Nay
Erdmann	-	Aye	Lorello	-	Nay
Eskildsen	-	Absent	Mahoney	-	Aye
Etchart	-	Aye	Mansfield	-	Nay
Felt	-	Nay	Martin	-	Nay
Foster	-	Nay	McCarvel	-	Nay
Furlong	-	Nay	McDonough	-	Nay
Garlington	-	Nay	McKeon	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

McNeil	-	Nay	Siderius	-	Nay
Melvin	-	Nay	Simon	-	Absent
Monroe	-	Absent	Skari	-	Absent
Murray	-	Nay	Sparks	-	Nay
Noble	-	Nay	Speer	-	Nay
Nutting	-	Aye	Studer	-	Aye
Payne	-	Nay	Sullivan	-	Nay
Pemberton	-	Nay	Swanberg	-	Nay
Rebal	-	Absent	Toole	-	Excused
Reichert	-	Nay	Van Buskirk	-	Nay
Robinson	-	Nay	Vermillion	-	Nay
Roeder	-	Aye	Wagner	-	Nay
Rollins	-	Nay	Ward	-	Nay
Romney	-	Aye	Warden	-	Nay
Rygg	-	Aye	Wilson	-	Aye
Scanlin	-	Nay	Woodmansey	-	Nay
Schiltz	-	Nay	Mr. President	-	Nay

CLERK HANSON: Mr. Chairman, twenty-two Delegates voting Aye, sixty-six voting No.

CHAIRMAN GRAYBILL: Twenty-two having voted Aye, sixty-six having voted No, Mr. Johnson's proposal is defeated. Now, Mr. Felt, does the Chair understand that you have a proposal?

DELEGATE FELT: Yes, Mr. Chairman.

CHAIRMAN GRAYBILL: The Chair would like to hear i

STATE PUBLISHING CO. HELENA, MONT.

It's got another one, but I think I would like to hear yours.

DELEGATE FELT: Yes. I might be trying to bite off too much because if this did carry, I think it would settle the entire ballot question, so I'd move that the revised ballot be as follows -- I'm following the general form of revised ballot number two with some variations from it. I move that the Style and Drafting Committee be authorized to choose the exact wording, but that it include a provision to vote for the proposed Constitution, period, and a provision to vote against the proposed Constitution, period, and that Style and Drafting be instructed to put the unicameral legislative provision in the body of the Constitution, and that it put the bicameral legislative body in as an available alternate. Second, that it provide provisions to vote for authorizing gambling or to prohibit the -- to continue the prohibition of gambling. And, third, that it provide provisions to vote for authorizing the death penalty or for abolishing the death penalty.

CHAIRMAN GRAYBILL: All right, the Chair understands that Mr. Felt has a motion, the substance of which is that Style and Drafting should make the ballot as follows: An opportunity to vote for or against the Constitution. Included in the Constitution would be unicameral. As an alternative to the Constitution's unicameral article would be bicameral. This is like revised ballot number two. In other words, the for or

STATE PUBLISHING CO. HELENA, MONT.

against is the top two lines with unicameral in, and if you put brackets around that, or strike out the word, bicameral, with an alternative then of bicameral. Then, secondly, Mr. Felt, if you're following number two, they put prohibiting gambling up above and then you could make your alternative authorizing gambling or against authorizing gambling -- is that what you mean?

DELEGATE FELT: Yes, just so they give you the choice on the gambling issue and give you a choice on the death penalty issue.

CHAIRMAN GRAYBILL: For, as you said, for -- and I think you have a good point -- for authorizing the death penalty and against authorizing the death penalty. In other words, you want to put the for and against there in such a manner that it comports with the death penalty. Is that right? Give them a choice on that?

DELEGATE FELT: Yes, a choice, and I would be glad to have Style and Drafting propose particular wording.

CHAIRMAN GRAYBILL: All right, now, this amounts to revised ballot number two, and the Chair will entertain Mr. Felt's motion and then there may be amendments made to it, and for that purpose I'll recognize Mr. Drum.

DELEGATE DRUM: Mr. Chairman, I would move to amend Mr. Felt's motion to read the bicameral portion of the Legislative article would be included in the body of the Constitu-

STATE PUBLISHING CO. HELENA, MONT.

tion and the unicameral would be the alternate. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: All right, the Chair will allow that. Now, let's get this down again so you all understand it. You may want to make some notes on this. There's an alternative for Yes or No on the Constitution itself, and the Constitution shall contain in Mr. Felt's amendment the unicameral. That's the subject of Mr. Drum's amendment. Then, number two -- then there's a sub to that. There's an alternative on the ballot for bicameral. O.K. Then, number two, the Constitution will say -- in addition to having the Constitution up there say unicameral, the Constitution will also say no gambling, and the alternative to that will be, allow gambling by the people and the legislature.

DELEGATE FELT: Mr. Chairman, are you explaining my motion?

CHAIRMAN GRAYBILL: That's what I'm trying to do.

DELEGATE FELT: No, I had intended to put into the body only the unicameral, leaving on the gambling and death penalty issues two alternatives to be voted either for or against, and I thought you just now said that one of them went into the body.

CHAIRMAN GRAYBILL: All right, I understand that on the death penalty they vote for or against, but I have trouble then with your motion, Mr. Felt. I just want it to make sense.

STATE PUBLISHING CO. HELENA, MONT.

If you put an alternative for or against -- and you can do this but the body's got to be aware of what you're doing -- if you put the gambling matter as a pure alternative, for or against, then we may have a forty-seven percent for and a forty-eight percent against and we may in fact end up with nothing in the Constitution, which really means that you are putting a third proposition. Now, if that's what you mean to do, fine, but then it's got to be clear. The other thing, if you're following form two, as you told us you were, it, as you notice, puts up at the top that you either have to prohibit or authorize gambling and that goes in, too, and only the words, as -- except as authorized by the legislature and the people -- then it becomes the alternative. Now, if you do it the other way, you're really back to Mr. Choate's third proposition of having nothing in the Constitution. Which do you want?

DELEGATE FELT: I wish to run the risk in regard to the gambling issue and the death penalty issue that there be nothing in the Constitution. I felt that this was the decision that the body had made by deciding at various times that these would be put on the ballot as alternate issues. Perhaps that decision was made before they realized that it might result in nothing being in the Constitution. In my point of view, if nothing got into the Constitution on them, then the legislature then, not being prohibited from dealing with the gambling question and not being prohibited with dealing with

STATE PUBLISHING CO. HELENA, MONT.

the matter of penalties, would have the discretionary power to deal with those problems.

CHAIRMAN GRAYBILL: All right. I was misled when you said you were following number two, which does it the other way, but we'll put it your way just so the public -- just so the body knows. Now, the point is -- let's all understand Mr. Felt's motion. His motion is that, number one, we are going to put one of the two legislative forms in the Constitution and the one we are going to put in is unicameral, and in a minute we're going to let Mr. Drum amend that to bicameral. Just wait until I've finished explaining and then I'll come back to you. Then, number two, he's going to put the gambling (a) - (b), and if neither gets fifty-one percent, then we have nothing about gambling in the Constitution. Now, the alternative to that -- well, maybe I shouldn't explain that, but eventually I'll make a motion if nobody else does. All right. Third, he is going to do the same with the death penalty, which of course isn't in in the first place, and then we'd vote for or against putting something about the death penalty in, and if fifty-one percent went for it, we'd put it in but if they went against it we would leave it out, where it is now. All right. Now, to that, Mr. Drum has an amendment to change bicameral and unicameral around. O.K.

Mr. Davis.

DELEGATE DAVIS: Mr. President, I move as a substi-

STATE PUBLISHING CO. HELENA, MONT.

tute motion to all motions pending, if it's proper, that we put the bicameral in the Constitution and leave the unicameral on the side, period, and then treat these others as separate issues so we don't get them all mixed up together.

(Inaudible conversation between Mr. Drum and Mr. Davis.)

DELEGATE DAVIS: Well, you left in the rest of your motion, though, of his, as I understood it. You only made an amendment which would leave the other two articles in.

CHAIRMAN GRAYBILL: All right, I understand what you've done, Mr. Davis, and that's a substitute motion and we'll allow it. Now, Mr. Davis eliminates all the other problems of the Felt amendment and says that -- he only deals with point one of Mr. Felt's, and he would have us vote yes or no on the Constitution with the bicameral in. Isn't that what you mean?

DELEGATE DAVIS: Yes, and unicameral as a side issue.

CHAIRMAN GRAYBILL: And unicameral out. So, he's not dealing with points two and three, and so we're going to discuss first Mr. Davis' motion and presumably solve one way or the other what point one should be about bicameral or unicameral.

DELEGATE DAVIS: Mr. President, my only point in that

STATE PUBLISHING CO. HELENA, MONT.

is, let's take these issues one by one as we've done throughout this Convention. We are getting at the end and everyone naturally is becoming impatient, but there could be some good arguments different people have or concern on the death penalty or concern on gambling as much as others are concerned about the unicameral or bicameral, and maybe more. So, I think if we approach it this way, we'll probably make more progress if we talk about one thing at a time and go on down the line.

CHAIRMAN GRAYBILL: Very well, Mr. Harper.

DELEGATE HARPER: Mr. Chairman, may I amend Mr. Davis' substitute motion?

CHAIRMAN GRAYBILL: O.K., shoot.

DELEGATE HARPER: I move to amend Mr. Davis' substitute motion by substituting the word, unicameral, for bicameral in the body of the Constitution, and bicameral for unicameral as the alternative.

CHAIRMAN GRAYBILL: O.K., I guess we can do that. Now, we've got all the amendments we can handle until something happens. Mr. Harper amends Mr. Davis' to put unicameral in and bicameral out. Unless someone has a real preference for the colors on those buttons, it doesn't make any difference. All right, we are now debating Mr. Harper's motion to have the first part of the ballot say you may vote Yes or No for the Constitution but the Constitution will contain the

STATE PUBLISHING CO. HELENA, MONT.

unicameral article and the bicameral as an alternative.

Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I think it has become perfectly clear that if we put either of these -- oh, the death penalty or gambling, or both -- as strictly side issues, as you pointed out, it ought to be clear that neither could pass because the vote is going to be divided somewhat, probably pretty evenly on these issues. If it were not going to be pretty evenly divided, we would have had a more top heavy vote --

CHAIRMAN GRAYBILL: Mr. Choate, I think your point is well taken on two and three, but your point is not well taken as to one since neither side has proposed leaving them both out.

DELEGATE CHOATE: Right. So, the point being, I think that on all three of these issues we need to decide in this Convention by a majority vote on each of these issues and those three should be put into the body of the Constitution, and the other would be as an alternate and it would be bound to fail, so the three that we would select to go in will be weighted top heavily in favor of them because they would be part of it. As two separate alternates would neither of them get a fifty-one percent majority, I don't believe, so I think that -- and in this -- or, on this instance, if we put, we'll say, the issue of gambling as a side issue to vote on

STATE PUBLISHING CO. HELENA, MONT.

and it fails, then, in effect, we who originally proposed to delete it from the Constitution will have done so because the new one won't make any reference to it and if it fails, then you have no provision. That's all. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, I rise in support of Delegate Harper's substitute motion and I'm wondering if the debate that was scheduled to start at two might start now at four-thirty? May I speak to the question of inserting unicameral in the body of the new Constitution?

CHAIRMAN GRAYBILL: If you speak, you may speak on that because we've got to decide that now, one way or the other.

DELEGATE REICHERT: All right. I'm not going to speak long and I want to beseech my fellow Delegates, whether they are bicameralists or unicameralists, to please follow suit. I hope that no one speaks more than a few minutes on either side. I want to apologize, first of all, because I'm afraid that during the course of the Convention some of my remarks have been misconstrued and I'm talking about remarks about past legislative sessions. I want to make it very clear that I have not been critical about legislators themselves. I had a lot of -- oh, quite a few people say to me they thought I had been very unfair to our legislators and I don't think -- and I'm sure that I feel inside that these legislators operated

STATE PUBLISHING CO. HELENA, MONT.

as well as they could under the structure they were given. I feel that it is completely the fault of the bicameral system that they had the problems they had over the past seven sessions, and I hope that by trying the unicameral system -- I'm very grateful to Delegate Habedank for inserting that provision -- by trying it to 1980, will give our legislators an opportunity to show what they can do for the state of Montana so that we're not always turning to the federal government, so that we can solve our own problems. I think we are perfectly capable of solving our problems if we have a system which we can work. Now, I know that there are many reasons I could go into -- the one man one vote being most important -- but I'm not going to do that. I am going to ask my fellow Delegates who are as concerned about this issue as I am to speak to the subject.

CHAIRMAN GRAYBILL: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President, I support the motion for the unicameral to be in the main body and I'll be very brief. I think it's no longer a matter of check and balances, to have two houses, but I do believe that -- and I believe this would eliminate the duplication. I think, actually, that we have been spending all our time talking about form and structure and power and rights of government, but the average taxpayer is more concerned about what hits his -- concerns his pocketbook and I believe that people are very

STATE PUBLISHING CO. HELENA, MONT.

cost conscious and I believe that the lower cost of the one house will appeal to most of the voters. Thank you.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I would urge you people on these motions that are now before the house to defeat all of them. I would like to have a chance before we vote on this to go for that first ballot. In other words, go for broke. And on that first ballot they are either for the proposed Constitution or they're against it. And then we have a vote straight out by the people of the state of Montana for a unicameral or a bicameral and we're not deciding it here, and I'm willing to take a chance. I think this business of running scared, saying all the people aren't going to vote on that second issue, they're not that interested -- we'll have the people out and I believe that we will have a majority vote on that second issue, and I would like to have you defeat all of these motions so that we can at least get to this one and then either up or down on it. If you don't agree with me, fine, but we're asking to be -- we are being asked to decide two things right now, the form of the ballot and unicameral and bicameral, and I'd like a clear cut choice on that first ballot. Then go to the second one or the third one, whichever one you want to choose there, and go ahead with the unicameral and bicameral, if that's what you want to do, but let's have a free choice on this first ballot, whether we want to take a

STATE PUBLISHING CO. HELENA, MONT.

chance on the people. We have talked in here a lot about participatory democracy. Now, we're going to take that away from them, so I ask you to defeat all of these motions and let's get back to this first ballot.

CHAIRMAN GRAYBILL: Mrs. Cross.

DELEGATE CROSS: Mr. Chairman, in line with what Chet Blaylock has just said, although I didn't know he was going to say it, I would like to make these remarks. In the North Dakota constitution which will go before the body there is this statement, and I'd like to read it to you if I may. It's very short: The main proposition calls for a vote on the proposed 1972 constitution. If a majority of the voters vote yes, it shall be adopted. If a majority of the voters vote no, the proposed 1972 constitution shall not be adopted. You may vote on any or all of the alternate propositions. If the main proposition fails, the vote on the alternate propositions shall have no effect. And then, following that, are some very brief statements with four alternate proposals, most of them merely to be marked by yes or no.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, Chet Blaylock is correct. This is not a matter of whether or not we are for unicameral or we are for bicameral. The proposition is to be left to the judgment of the people, the voters of the state of Montana, and the first form here, which nobody seems to be

STATE PUBLISHING CO. HELENA, MONT.

talking about is the one that should be used. I concur with Delegate Blaylock one hundred percent and trust that you will defeat all of these amendments and authorize the issuance of the first one.

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President, fellow Delegates, I signed my name on both of these proposals for bicameral and unicameral. I hope that we can try unicameral until 1980. The delegation that we have here of one hundred Delegates proves to me that a bicameral legislature will work because we have had reconsideration on many things and it's in the reconsideration of things we've passed and done that I, as just a layman, and I know a lot of others of you, that I have found out more about what we're talking about. Thank you.

CHAIRMAN GRAYBILL: Mrs. Mansfield.

DELEGATE MANSFIELD: Mr. President, this is the premise that I have been working on, too. I think if we vote here for a unicameral or bicameral, we are infringing on our right of a secret ballot and I think we should be going back to our communities and giving them the right to choose the unicameral or bicameral. Thank you.

CHAIRMAN GRAYBILL: Mr. Foster.

DELEGATE FOSTER: Mr. Chairman, fellow Delegates, I speak in favor of the motion before the house, in favor of including the unicameral proposition in the body of the doc-

STATE PUBLISHING CO. HELENA, MONT.

ument and the bicameral at the side. I realize that in doing this that this body would, in fact, be stating a preference for the unicameral position, but I submit that this is not all that bad a situation. Delegate Driscoll had a motion before the house which would have settled it once and for all but at least in this way we are giving the people a chance to vote against the unicameral if they are overwhelmingly in favor of retaining the bicameral, but at the same time we are at least expressing our preference as a body to try the unicameral system. We have allowed for the alternative of them voting against it if they find it unsatisfactory. And I, for one, feel that the unicameral house will provide better representation for the minorities, whether they be rural Montanans, whether they be in the cities of Montana, or whoever they may be, and I feel the issue of representation is extremely im portant in this field, and I feel that by placing the unicameral in the body of the Constitution and placing the bicameral as an alternative on the side that we, in fact, give the people of Montana the preference of this body and we also give them the opportunity if they feel so inclined to vote against the preference of this body and retain the bicameral if the majority of the people of Montana want to vote in that manner. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. Chairman and fellow Delegates

STATE PUBLISHING CO. HELENA, MONT.

I had hoped throughout this and supported throughout putting them both on the ballot. I missed the Style and Drafting report that there's some problem presented that the Enabling Act will still carry through after we adjourn, so a majority will not prevail and that's -- is that correct, is what the Chair's understanding is -- that a majority, a simple majority will not write the article in the Constitution?

CHAIRMAN GRAYBILL: I don't -- that isn't my -- I don't understand your question, Mr. Davis.

DELEGATE DAVIS: In other words, the fifty-one percent that you have to get between bicameral or unicameral if they're both alternatives.

CHAIRMAN GRAYBILL: The sense of the Enabling Act and really of the old Constitution is that fifty-one percent of the people -- or, fifty plus one vote -- fifty percent plus one vote of the people have to support a proposition before it's adopted.

DELEGATE DAVIS: Well, I'm not any authority and haven't studied on that, but I have serious reservations about it, however, since it seems to me that when the people vote on this new Constitution the majority should prevail. But, I won't pursue that because of the matter before us. I had hoped that these both would be on the ballot so a person could go ahead and vote and let the people vote how they want. As it now comes that everybody is going to put themselves in this

STATE PUBLISHING CO. HELENA, MONT.

situation, I am going to support the bicameral proposition and go down in flames with them, not because of the finance part. I realize that's going to be more than unicameral. I think in the bicameral -- or in the bicameral. The bicameral is going to cost more money, which suddenly has become an issue here after all the many things we've done from education, welfare and on, we're going to be concerned about money at this era. That's not surprising to me. When we went through, I thought I'd observe how a unicameral system works. We are now at the last day. I think we have all had a chance to observe how it works. We talked about Revenue and Finance -- a lot of people were concerned. On the highway department -- the highway department is run by a board appointed by the governor, of citizens -- very responsible people doing the best job they can, I'm sure. At that time the big argument was made, we're going to make them responsive to the people so we're going to take a three-fifths amendment and that will make them responsive. All right, I voted to let them run the highway department. I didn't care any more about the League of Women Voters designing our highways than I did the Farm Bureau running the education system, but when we got to the education system, what we said about being responsive to the people didn't apply. I voted to give the board of regents power to run the school system, too, because I think that's what you have to do, but the people that voted against the highway running

STATE PUBLISHING CO. HELENA, MONT.

their department voted against the board of regents running theirs completely, and that's happened in our unicameral system. It's going to go out that way. It's going to be a very bad, grave error we made on this thing. I've sat here and watched votes switch from seventy-seven to sixteen on Saturday to seventy-six to seventeen on the following Monday, and seen things we put in on Saturday completely changed the following Monday. They say that's the right to reconsider, but if you're that unsure of yourself, with the lot of work we have to do and the legislature will have to do, and that, I think the system of checks and balances that worked throughout our history has worked very well, and I think there's plenty of work for both the senate and the house to do. With all the work this Constitutional Convention is going to do, they're going to need all that and a lot of additional help at that. So, I'm going to support putting the bicameral in. That's the system that would normally be expected to be in, and let them vote on the alternate on the side.

CHAIRMAN GRAYBILL: Mr. Rollins.

DELEGATE ROLLINS: Mr. Chairman, I spoke out strongly against putting alternatives on the ballot and hoped that we could make up our mind here. I supported Mr. Driscoll's amendment to that effect. Since that didn't carry and we are going to have alternatives, then I favor as wide open an alternative as possible. Therefore, I oppose the motion of Mr.

STATE PUBLISHING CO. HELENA, MONT.

Felt, or whose ever it is now that it's been amended, and I agree with Mr. Blaylock that the people should have a wide open choice on this. Thank you.

CHAIRMAN GRAYBILL: Mr. Berg.

DELEGATE BERG: Mr. Chairman, Miles Romney notwithstanding, Mr. Rollins notwithstanding, I am against Chet Blaylock's motion and I am for the Constitution, and I am very apprehensive about what we are about to do here today because the figures just don't justify the approach we are about to take. Those figures on that board indicate very clearly to me that we may very well adopt a new Constitution and have an 1889 legislature. It's almost inevitable because those who vote against the Constitution are not going to take the trouble to vote for either the unicameral or bicameral, and the result will be that the vote on bicameral and unicameral will not be sufficient, it will not be a majority, it will not carry, and we will necessarily on our legislative feature revert back to 1889 and lose all of the benefits that this new legislative article provides. This is, after all, the real issue that we are discussing here. This is an immensely important vote you are about to undertake.

CHAIRMAN GRAYBILL: Now, the Chair is disturbed, and no one getting up instantly, the Chair is going to enter the debate for a moment, if I may, and I'll sit up here if you'll let me. The Chair is disturbed. I think it's good that

STATE PUBLISHING CO. HELENA, MONT.

we have debated this this afternoon because I think that the whole body is beginning to see the problems that have caused our excellent Style and Drafting Committee to literally come up with no proposal. It is not an easy problem. However, it need not necessarily be an impossible problem either. Now, let's get back to the basics here. The Constitution says that the -- and unless so submitted and approved by a majority -- a majority is the word you want -- of the electors at the election, no such revision, alteration or amendment shall take effect. So, we know that a majority has to prevail before any revision, alteration or amendment takes effect. Then the Enabling Act came along and it says: The Convention may submit the proposals -- in the plural -- to the electorate in any of three forms. As a unit -- now, we've rejected that by rejecting the amendment to take these alternatives out. Number three, in the form of a series of separate amendments -- we've rejected that -- that's Mr. Johnson's proposal. And, (b), submitted as a unit with the exception of separate proposals to be voted upon individually. Then it says down here: If a majority -- that's what it is, it isn't fifty-one percent. We talk about that sometimes but it's a majority -- of the electors voting at the special election. Now, Mr. Murray has already checked with the secretary of state's office and so that everybody understands, the secretary of state says he is going to count the people who vote for and the people who vote

STATE PUBLISHING CO. HELENA, MONT.

against the Constitution, and whatever that number is, that's the ones he's going to count as voting. Isn't that correct, Mr. Murray? He's not going to count the poll book, he's not going to count this and that and that and add them because lots of times the votes don't all add up. He's going to count the plus and minus or the for and against the Constitution and that's the number voting, just like you do when you -- the other day when we said the number for a referendum is the total for the office of governor. O.K., now, if a majority of the electors voting at the special election vote for the proposals of the Convention, then the governor shall by proclamation declare the proposals to have been adopted. Now, that has caused the Style and Drafting Committee to come to the conclusion that we have to have, not fifty-one percent, but a majority on each proposal. Now, for a while there was a possibility and a suggestion, if you'll follow through the way this developed, that we could say that a vote for the Constitution implied a vote for one of the two alternatives on bicameral-unicameral, and that a plurality on that issue could decide. Now, we could do that and we could say that that's what we mean and that the only vote that counted was on the fifty-one percent -- on the majority part - - was the top one, but the lawyers on Style and Drafting are afraid this is risky. It does place in the hands of the supreme court the issue of whether or not a plurality on unicameral-bicameral means any-

STATE PUBLISHING CO. HELENA, MONT.

thing. Now, proposal -- ballot proposal that you've got before you, called official, takes Mr. Blaylock's position and it says, let's vote for or against the Constitution. Now, we either get fifty-one percent or not. If we don't, why, it doesn't matter, but if we do, then we'll vote for or against the unicameral-bicameral, for or against the other two propositions, and as Chet says, we'll take our chances on getting fifty-one percent, and we could do that, and if you have an open ballot like that, it's certainly conceivable that with any little margin up above you'd have some margin on one of those other two articles, so we could -- and it really wouldn't matter too much on the bottom two, but it does matter on the legislative. So, we could run that risk. It's to avoid that risk that the Style and Drafting proposes that ballot number two -- not the second one, the third one -- ballot number two, and to avoid that risk they have decided, or they have suggested on this ballot, and that's the motion that Felt has before us now, we'll put one of those right in the Constitution and when you vote Yes on the Constitution, you've automatically voted for one of those. That avoids the risk of losing a Legislative article and of losing the other two little items on the ballot. It does, however, provide the guy who is left out with a slight disadvantage. None of us obviously know how great the disadvantage is, but it does provide us with a disadvantage. So, you've got to go on the proposition that Mr.

STATE PUBLISHING CO. HELENA, MONT.

Blaylock says, we'll just take the risk, or you've got to go on the proposition that one of us is going to get a slight advantage -- one of the two sides; or, if you'll look at number one, revised ballot number one, here is another strange idea that sort of combines the two, and in this one -- it's kind of hard to read because of all of the alternatives there, but what it really is saying is that we'll put one in all right, we'll put -- let's say bicameral in, so we can't lose, but instead of putting unicameral out, you'll put unicameral-bicameral out so when people make the choice on vote number two, they're still making a choice between unicameral-bicameral. If bicameral wins it substitutes for bicameral, and obviously nothing happens. If unicameral wins, it substitutes for bicameral -- if it wins by fifty-one percent -- it substitutes for bicameral and obviously something happens. The point being that on this one, when the people see ballot number two, or choice number two, they are still choosing between one house and two house instead of choosing one house or nothing, or two house or nothing. Now, that's the three propositions you've got before you. And, you can go with Mr. Felt's, which is perfectly -- it's a safe one. It's got one of them in and if we ever get fifty-one percent we can't lose. The only disadvantage to it is that one of us, one side, is going to take a licking. Or, we can go with Mr. Blaylock's and say, devil take the hindmost, we're going to go for broke and we'll take our

STATE PUBLISHING CO. HELENA, MONT.

chances, in which case it's possible that you could piece together something of the old Constitution to take the place of that particular part if it lost. Or, you can reserve your votes and go for another -- number three -- which puts either unicameral or bicameral in and then it becomes less important. It's still important but it becomes less important -- and give them either a clear unicameral or bicameral choice outside. Now, those are your three alternatives. You've got to either support Felt, or you've got to wait and support Blaylock, or someone is going to make a motion to do the one in the middle.

Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I cannot see the logic in this proposition at all.

CHAIRMAN GRAYBILL: In any of them?

DELEGATE ROMNEY: No, this one -- number two.

CHAIRMAN GRAYBILL: Felt's.

DELEGATE ROMNEY: And the same goes for number one. I can see the logic in the Blaylock proposition, although there is some risk there, but is there not equally the risk in number two, where you tie either the unicameral or the bicameral, I don't care which, into the Constitution itself -- into the main body of the document? When you do that -- let us say you put the bicameral in or the unicameral in with the main body of the Constitution, the electorate goes to the polls, they vote. The people who see the unicameral in there

STATE PUBLISHING CO. HELENA, MONT.

who are against it, they vote against the unicameral and in the same sweep of the hand, they vote against the Constitution in toto. The same thing would happen if it were the bicameral that were in there. They go to the polls. They're against the bicameral. They vote against the bicameral and when they do, they vote against the Constitution.

CHAIRMAN GRAYBILL: Well, that only would apply, Mr. Romney, if in fact you wrote it up in such a way that it was crystal clear that they did that. But, if you simply wrote the Constitution and put into the -- and it's available for their surveillance at the -- they can look at it at the polls -- but the North Dakota ballot, for example, it's really not possible to tell whether the one house and two house alternative is in or out of the constitution.

DELEGATE ROMNEY: Mr. Chairman, it's in the same bracket and when they vote against the Constitution -- or bicameral or unicameral, I don't care which it is, they're voting against the Constitution and when you get the people who are against -- say it's the bicameral -- you get the people who are against the bicameral voting against the Constitution, plus the people who are against the death penalty or one of the other things, or against the section six in the finance section, and against this and that and some other section, you're going to build up a majority that will be insurmountable.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I would like to ask you a question. I would like to vote on revised ballot number one. Is the only way to get to that to defeat all the other ballots and make a motion, or can we make another substitute motion for all motions pending, because if we would accept revised ballot number one we would have all these things answered.

CHAIRMAN GRAYBILL: Well, the way to get at revised ballot number one is to wait until we have defeated at least something or until we have adopted something and then make a proposal to substitute for what we adopted.

DELEGATE HABEDANK: Thank you.

CHAIRMAN GRAYBILL: Mrs. Eck.

DELEGATE ECK: It was my understanding some place along the line, and I'd like to be corrected if I'm wrong, that on revised ballot number two the for or against would just be for the proposed Constitution and against the proposed Constitution. I think that if anything more is added to it, why, the people are starting to make a choice long before they want to make choices down below, and I think maybe the way this is worded up here is confusing people. Would Mr. Schiltz yield to a question here?

DELEGATE SCHILTZ: I yield.

DELEGATE ECK: Mr. Schiltz, would you intend to put

STATE PUBLISHING CO. HELENA, MONT.

more than for the proposed Constitution and against the proposed Constitution?

DELEGATE SCHILTZ: As I explained earlier, Mrs. Eck -- quite a lot earlier and I don't blame you for having forgotten -- this is only a guide so we can debate this matter. We would still, after we got that answer, would still adopt a ballot and possibly change it. We haven't even acted on that yet.

DELEGATE ECK: Mr. Chairman, I really think that this is where a lot of the misunderstanding is here. If we do vote on this for and against, up at the top, and then started adding things, I can't see that there's going to be that much confusion.

CHAIRMAN GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. Chairman, am I right in that Mr. Felt's amendment, which was the original motion before us, was on revised ballot number two, and he proposed some amendments to that?

CHAIRMAN GRAYBILL: His -- it's the first half of revised ballot number two, but he did not follow through on three-A and four-A.

DELEGATE MURRAY: Yes, but he did make some -- just speaking to the legislative part of it, his motion spoke at least to the legislative article as we are discussing it, right?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Felt's is revised ballot number two, as far as the Legislative article and the Constitution is concerned, yes.

DELEGATE MURRAY: And he was unicameral in the body of the Constitution and bicameral out?

CHAIRMAN GRAYBILL: Yes.

DELEGATE MURRAY: And Drum then proposed an amendment, bicameral in and unicameral out?

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE MURRAY: And then we finally ended up with Harper.

CHAIRMAN GRAYBILL: Davis proposed --

DELEGATE MURRAY: Davis ahead of Harper then? Right. Davis limited the motion just to the legislature.

CHAIRMAN GRAYBILL: Davis' and Harper's motions do not include the three and the four.

DELEGATE MURRAY: That's right. So now the issue is on Harper's motion that we have the unicameral in the Constitution and the bicameral out, is that right?

CHAIRMAN GRAYBILL: That's the idea.

DELEGATE MURRAY: Under -- generally under revised ballot number two?

CHAIRMAN GRAYBILL: Yes. Now, when we decided that, if we decide it -- you know, that doesn't -- once we've got it in there we still have to decide what to do with some of these

STATE PUBLISHING CO. HELENA, MONT.

other things.

DELEGATE MURRAY: Right. Well, I realize we have those other issues. Well, then, at this time, since we are all discussing revised ballot number two, which in principle is where I think we should be, and since I'm a unicameralist, I would support Harper's motion.

CHAIRMAN GRAYBILL: You got it figured out, Mr. Murray.

Mrs. Bates.

DELEGATE BATES: I know there is no longer allowed any more amendments, but I was wondering -- and I would like to ask a question of Mr. Schiltz, with your permission -- of Delegate Schiltz.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I yield.

DELEGATE BATES: Mr. Schiltz, did you consider at any time including the -- everything but the structure of the bicameral and the unicameral within the Constitution package itself, and leaving just the structure for the people to vote on? Could this be possible?

DELEGATE SCHILTZ: Are you talking about the ballot or the Constitution?

DELEGATE BATES: I'm talking about the ballot just having the structure of the unicameral and the bicameral as an alternate vote, whereas, the body of the Constitution would

STATE PUBLISHING CO. HELENA, MONT.

include all of the reforms we have acted on here.

DELEGATE SCHILTZ: Mr. Chairman, would Mrs. Bates yield to a question?

CHAIRMAN GRAYBILL: Mrs. Bates, would you yield?

DELEGATE BATES: Yes.

DELEGATE SCHILTZ: What do you mean by the structure?

DELEGATE BATES: I mean those first three sections of the Legislative article.

CHAIRMAN GRAYBILL: What she means, Mr. Schiltz, is have you considered putting all the things that both these people agree on in the Constitution and only have the one house or the two house and the number of legislators out.

DELEGATE SCHILTZ: Yes, I think we considered that and rejected it.

DELEGATE BATES: Could I speak, then, on the motion before the floor? Delegates, I feel we should realize that it is a fact of life that no future legislature will cost less than they have in the past, regardless of what type, whether it's a bi- or uni-. It has also been stated that the people want to express themselves, and I feel that if we leave the unicameral in the Constitution itself, it will jeopardize the entire Constitution. And in regard to Mr. Harper's saying at one time that whether we want a one hump or a two hump camel, well, I would feel much safer between two humps than try to

STATE PUBLISHING CO. HELENA, MONT.

straddle one and sliding off one side or the other. Thank you.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Mr. Chairman, I feel that Grace was on to a point, and I'm still uneasy about it -- not the one hump or the two because the thing that makes me for unicameral is that the two humps in the last seven years have been going in opposite directions, and that makes a pretty untenable camel. The idea, though, that she had that she expressed in her question to Mr. Schiltz is exactly the idea under which the Legislative Committee labored in producing the document. We attempted to write a body of the Constitution, a Legislative article, so that the only question would be in terms of the structure and then whichever one passed, or actually if neither one passed -- if we didn't get a fifty-one percent -- we were aware of this -- then it naturally would be bicameral. It would be the old bicameral, but we'd have all the rest of the new article in there, and we thought that could be a compatible kind of situation, and I understand that the Style and Drafting Committee rejected this idea because we drew this up in a lot of detail last night and gave it to them, but I'm not sure exactly why. Now, that's one thing. Second, I would be -- I think that some way we are in a bind here now, and I helped get us in a bind by getting that fourth amendment on there. Really, if we could deal with Mr. Blaylock's suggestion, vote number one up or down -- if we go for that, we

STATE PUBLISHING CO. HELENA, MONT.

haven't got the other. If we don't go for his suggestion, then we'll know we want one in and then we can come right back to this, and if I knew we could do that, I think I would withdraw my amendment, if he could immediately put number one up, and then we'd settle once and for all whether we want to go for broke that way, or whether we want to go the safe way with ballot number two, and then we can come right back to either way we approach it, bicameral or unicameral, it just depends on the button you push. Is that -- would that help if I withdrew that?

CHAIRMAN GRAYBILL: Well, Mr. Harper, first of all, may I point out to you that under the Felt proposal where one of the articles goes in, or under the proposal that Mr. Habedank just mentioned and I mentioned, the revised one, you are going to have all those articles in the Constitution anyway. So, it's only under the Blaylock amendment where Mrs. Bates' point and your point makes any difference. Now, if we get to the Blaylock proposal, we might very well want to tell the Style and Drafting to tighten it up as far as possible and as get as much into the tent before we decide as possible. But, under the other two, it really doesn't make a whoop of difference whether you shorten it up or not. Do you follow me?

DELEGATE HARPER: Yes, I do follow you. That's the reason I went a round about way to get at my question of whether Mr. Blaylock's proposal -- I assume he would make it for

STATE PUBLISHING CO. HELENA, MONT.

us to vote on number one, would be possible if I would withdraw my amendment at this juncture.

CHAIRMAN GRAYBILL: Well, there's one other point, and we could go to Mr. Blaylock's first and decided whether we wanted to go for broke and do as he says, but there's one other real problem that this body is at right now, and we're going to decide it on yours and Davis' amendments, and that is, this body still wants to know and they're going to force us to decide sooner or later which one's got the most votes --

DELEGATE HARPER: I don't object to that --

CHAIRMAN GRAYBILL: -- and until we decide that, it isn't going to make any difference.

DELEGATE HARPER: But if -- we've got -- if we could have that, that's all right but, see, we're tying in a ballot form along with that at the same time.

CHAIRMAN GRAYBILL: My point is, we don't have to know which one's got the most votes to decide the Blaylock issue.

DELEGATE HARPER: That's my point exactly, and if we decide for his, then we can decide -- we can take a straw vote or any other way you want --

CHAIRMAN GRAYBILL: But this --

DELEGATE HARPER: -- to do --

CHAIRMAN GRAYBILL: -- body --

DELEGATE HARPER: -- it.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: I just want to remind you that for a long time the Chair has resisted making this decision and I can see written on their faces that they're going to decide this issue, which has got the most votes, and if we do that, they're going to defeat Blaylock to find out and then they'll go back and think about Blaylock again, so we might as well find out which one goes in and then if Mr. Blaylock can convince us that neither ought to be in, probably we'll take one of them out.

Mr. Dahood.

DELEGATE DAHOOD: Well, Mr. Chairman, first of all, I think we've got to reason together very precisely. We have a basic general premise that we're avoiding at times in our discussion, and I think my dear friend, Chet Blaylock, avoids that premise, and that is simply this. A certain number of the voters are going to vote on whether they want a new Constitution or not. That number becomes binding upon us with respect to the other propositions. If they vote in favor of a new Constitution, then that means the old one is gone when the transitional period is over. Then we come down to the question of going for broke, as Mr. Blaylock describes it, and let's assume that we don't have fifty percent plus one vote for either one, which may very well happen because some people may vote for the top proposition and neglect the rest of the ballot. Then what do we have? Recognizing the major premise

STATE PUBLISHING CO. HELENA, MONT.

that we cannot get away from, that we will have to have fifty plus one votes of those that voted for the primary proposition with respect to the Constitution, we adopt the new Constitution, we don't have the requisite majority for the subsequent or secondary issue, the old Constitution is out. What legislative body do you have then? You don't have the old one. You don't have anything, and so, as a consequence, we are compelled to take the risk here. We have to make a choice with respect to bicameral or unicameral. The people sent us here for progressive reform. If they don't like it, they're going to have an alternative proposition to take the bicameral back or the unicameral back, whichever party prevails here, and we have no other solution as I view it. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Ask.

DELEGATE ASK: Mr. Chairman, I've changed my mind three or four times this afternoon, but I think -- let me suggest one other way out here. Maybe it's a -- I agree with Chet Blaylock and I agree with Mr. Romney that we are putting something in the Constitution they're going to vote against it even though they are for it for other particulars. Why not on the ballot for the Constitution put -- outline it in black -- put four items. Put for the Constitution, including unicameral; the next one, against the new Constitution, including unicameral. Go on down, and for the proposed Constitution with bicameral, and then against the proposed Constitution with

STATE PUBLISHING CO. HELENA, MONT.

a bicameral, and then you put up in letters, vote for one. So, no matter how they vote, they don't have to make a choice. They're still going to take the new Constitution with whatever house they want, and you're going to give them four things but they only vote for one. I think this solves the problem. This is where we're getting at, I feel. So, I would think we would turn down these motions and get back to Chet Blaylock's for and against but put four propositions rather than two.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, will Mr. Schiltz yield to a question, please?

DELEGATE SCHILTZ: I yield, but I might turn it over to Mr. Garlington or somebody.

DELEGATE REICHERT: Well, as you know, we have been talking about this for months and my primary concern is giving the people an opportunity to choose and I would go along with Mr. Blaylock's proposal completely if we had some assurance that we could include these points that we have worked so hard to conform unicameral-bicameral, but I understand that. Now, my question to you is, Mr. Ask's point has really captured my imagination. Would it be possible for us to do this?

DELEGATE SCHILTZ: Well, I think it's possible for you to do anything. I haven't really thought of it all that long, but suspect, without asking the committee, that we would be opposed to a great many propositions on the ground that the

STATE PUBLISHING CO. HELENA, MONT.

more propositions you have, the more likely one or more of them is to fail, but I'd have to take it up with the committee. I can't decide that.

CHAIRMAN GRAYBILL: Mr. Schiltz and Mrs. Reichert, Mr. Ask's proposal is indeed intriguing, but I just worked it out and if a hundred thousand voters voted, and twenty-five voted for each of those four propositions, nothing would happen.

Mr. Ask.

DELEGATE ASK: Mr. Chairman, I see that point but I think you're -- we're going to -- I think we can do that. We can bracket the first two and bracket -- have those two count, I think, rather than take all four -- the for and against for unicameral and the for and against as one unit -- unitize it and then you don't run into that problem.

CHAIRMAN GRAYBILL: I think that's what we're doing, only we're doing it in a slightly different form, but you can't do it just -- the way you had it is beautiful if you didn't have the rule about the majority.

Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I am going, if we get an opportunity in the fall, to vote for unicameralism, but I think what we ought to do is I think we ought to put bicameralism in the body of the Constitution and then on the side put bi- and uni- both, so that the people can vote one or the other, neither will have any particular preference -- they'd

STATE PUBLISHING CO. HELENA, MONT.

both be there. You'd check bi- or you'd check uni-, and that way, we'd solve the problem. We would give the -- we would draw the issue clearly between bi- and uni- out on the side. They could either vote bi- or uni- and presume, hopefully, there would be a majority vote for one or the other, but if there weren't, we'd still have bi- in the Constitution and it seems to me that that would be the better way to go for this reason, that the traditional thing is to have the bicameralism and there are a lot of people who are just violently opposed to unicameralism, and they would, if the unicameralism was in the body of the Constitution, they may be tempted to double shoot the turn, as my good friend Dave Holland says, and simply not take the chance of having a unicameral body and therefore vote against the Constitution, and I don't think that there are that many unicameralists that are that narrow, if I may say --

(Laughter)

DELEGATE JOYCE: And so, I think if we put the bicameral in the body of the Constitution and put bi- and uni- both where you take your pick out on the side, and let that issue be fairly debated in the public forum as to which one will win, I think there will be a majority of the people will vote on that issue and one or the other will win and the people of Montana can live with it either way. But, I'm afraid that if we put unicameralism in the body of the Constitution, even

STATE PUBLISHING CO. HELENA, MONT.

though I think it's worth the try to go for unicameralism, that we would be jeopardizing the entire document because of, as I say, the tremendous opposition to unicameralism -- they would be tempted to vote against the Constitution, so I would propose that that might be a solution to the problem and that would be fair all the way around and would guarantee us that we would at least have a bicameral modern legislature and would still give the unicameralists and the bicameralists the chance to fight the battle out in the public forum as to which one of them won if both of them were listed side by side on the alternate.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I am very much in favor of unicameralism with the amendment which gives the people the opportunity to try it and see if they like it, but to me, if Style and Drafting would spend the time that they have spent on all our other measures making them make sense on revised ballot number one, if we could ever get to it, we could have all this and I would sure like some suggestions as to how we can get to revised ballot number one without voting against unicameralism.

CHAIRMAN GRAYBILL: Well, Mr. Habedank, what Mr. Joyce described is revised ballot number one, except he put bi- in and you'd put uni- in, or maybe you wouldn't, but what he just described is revised number one and you're right, but

STATE PUBLISHING CO. HELENA, MONT.

whether we put uni- in or bi- in, we still haven't decided. It would seem to me that if we either adopted or defeated the Harper amendment, we could then take another amendment and then try out Mr. Joyce's proposition or Mr. Blaylock's proposition. Let's see, I'd like to let a few newcomers in.

Mr. Etchart.

DELEGATE ETCHART: Mr. Chairman, I would like to support Mr. Joyce's idea because I believe it is obvious that the bicameralists will vote for the document with the bicameral article in the body, and our present Constitution has this provision, so the only way the rest of the new Constitution will have a fair chance is to put the new Constitution before the voters as it is in the present, and that's with the bicameral provision in it. So, I support Mr. Joyce's idea.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, I think if we took a poll here at this time, I think probably one hundred of us would agree that the single most important thing we came over here for was to change the legislature. I don't think there's any question about that and I also think if you went out in the street and started talking to people, everyone would say, yes, we need change in the legislative area. That being the case, it seems to me we have to give the voter every opportunity he can have to vote on this legislative problem, and I would propose, therefore, that if we submit to them a

STATE PUBLISHING CO. HELENA, MONT.

new Constitution with either a bicameral or a unicameral article in it, that we at the same time and as a separate proposal that can stand or fall on its merits without reference to the rest of the Constitution, give them the right to vote on the other alternatives. In other words, if we put in the Constitution the unicameral article, then as a separate proposition, free and independent of anything else, do you favor the legislative bicameral article, and if that's passed and the rest of it fails, then we have passed, in effect, the old Constitution with the new legislative article. It think it's vital to be given this opportunity, regardless of the rest of it.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman, after several hours with the Style and Drafting discussion of this, I was, for three of those six or so hours where Chet Blaylock seems to be now, that is, feeling that we could somehow do this as gamblers and get our -- simply assume that we are going to turn up with a majority, but the lawyers in the group convinced me after at least three hours that we simply had to make a choice and include something in the body. As I have listened to Mr. Swanberg, I think he is in error. We would have nothing. We would not have a new article. We would have no Constitution if we took the route that he has just suggested, but what concerns me is the way in which it has been presented here this

STATE PUBLISHING CO. HELENA, MONT.

afternoon. I think George Harper was on target a moment ago. We get ready to vote on his particular amendment and we are not on a clear issue because we're worrying, well, now, maybe Chet was right; maybe we don't have to vote on this the way we feel. We'll wait and get a chance to vote on it like the first proposal here, and it's very unclear. I would just say that if you're concerned to get something in the body and if you're a unicameralist and want that in there, you'd better vote Harper's amendment the first time around and see what happens.

CHAIRMAN GRAYBILL: Mr. Harlow.

DELEGATE HARLOW: Mr. Chairman, with the accumulation of great minds here in this room and all of the various suggestions that have been put forth, we have come up with this suggestion which I think might be quite palatable to everyone. Instead of having the four proposals, as Mr. Joyce mentioned -- oh, Mr. Ask, excuse me -- too many things around here. I can't keep track. Why don't we put on the ballot these three votes -- in other words, one square, voting for new Constitution with unicameral; for a new Constitution with bicameral; or against the new Constitution. There you have a person being allowed to choose between bicameral and unicameral and have the Constitution with it in to his liking, or if he doesn't like any of the Constitution, he can vote against it. Sort of gives you a double affirmative vote without the

STATE PUBLISHING CO. HELENA, MONT.

negative situation and gives you just the one single negative vote.

CHAIRMAN GRAYBILL: Mr. Harlow, may the Chair ask a question?

DELEGATE HARLOW: Yes.

CHAIRMAN GRAYBILL: What happens if a hundred thousand vote and thirty-three thousand vote for each of your propositions?

DELEGATE HARLOW: We're right back where we started. We're in trouble.

(Laughter)

CHAIRMAN GRAYBILL: Mrs. Babcock.

DELEGATE BABCOCK: Mr. Chairman, what if we broke all our rules and took a secret ballot and gave them all to the Rules Committee or to Style and Drafting tonight and came back in the morning?

CHAIRMAN GRAYBILL: Well, I think we can vote on some of these and we'll get somewhere here in a minute, but Mr. Skari hasn't spoken yet and then I'll come to you, Mr. Felt.

DELEGATE SKARI: Mr. President, as I understand it, then, our problem is really with the language in the Enabling Act, that somehow it wasn't written quite the way it should have been, evidently. Now, I'm not a lawyer and I'm bothered by the intent of this. I'm sure that they -- the people who

STATE PUBLISHING CO. HELENA, MONT.

wrote the act -- would have intended that we be allowed to vote on these alternate proposals and that a simple plurality would carry. It seems right now, under Mr. Blaylock's version here, we can take a chance here. One or other of the alternative proposals here, the bicameral or the unicameral, may carry by a majority of those who vote on the main body of the Constitution; or, two, the court could rule, possibly, that a simply plurality on the alternatives is all that's necessary. It seems to me that this was the intent of the act. We use our comments here. They say they will use our comments some day to clarify what we do. I'd just like to pose a question to some of the lawyers. Are there any comments that we can go by?

CHAIRMAN GRAYBILL: Well, Mr. Skari, the problem started in 1889 when the amendatory process, which included a provision for a constitutional convention, which we are using today, said -- and unless submitted and so approved by a majority of electors voting at the election, no such revision, alteration or amendment shall take effect. That's why the Enabling Act says you've got to have a majority on every proposition, because the founding fathers said that.

DELEGATE SKARI: I see --

CHAIRMAN GRAYBILL: And they said it because they felt very strongly that a majority should support anything we do. It's not a mistake. It's just what they said.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SKARI: I see. Well, thank you, Mr. President.

CHAIRMAN GRAYBILL: All right, Mr. Felt, do you want to close?

DELEGATE FELT: Well, my motion --

CHAIRMAN GRAYBILL: You can't close. Mr. Harper can, but we'll let you have a shot at it, because you started it.

DELEGATE FELT: Yes. I didn't speak on my own motion or any of the amendments or substitutes. Members of the committee, of course the reason we are here is because the Constitution of 1889 did not seem to us to be satisfactory, nor did it seem satisfactory to the people of Montana, and we're just seeing another example of that today. Our hands are somewhat tied. I have great sympathy for the position of Delegate Blaylock and particularly Delegate Romney, who said there's no logic to this. And Mr. Skari, who pointed it out very well. It isn't a question though that we can avoid because it's with us. The present Constitution simply doesn't give us the opportunity to frame these things the way we might prefer, unless we are, at the same time, willing to take risks that the whole thing can fail, and to many of us, this is an unacceptable risk. I can certainly say I agree with that line of thought because I am following it, certainly, in regard to the gambling issue and the death penalty issue, to

STATE PUBLISHING CO. HELENA, MONT.

put them both out there on the side, just give people a free choice. And I would have wished that this could have been done with the bicameral-unicameral issue, but I would feel so utterly stupid if we went through this whole process and because of the risk pointed out by Delegate Berg and others, we get a favorable vote on the Constitution and end up without a legislative body, that I can't possibly stomach that thought, and so we've come up in this very convoluted process here of motions, amendments, substitute motions and choices, and we wish we had room for one more, and that would suit me. Frankly, I'm willing to support any of these things -- the four that are before us and the one that will come before us -- if we get an opportunity, because anything is preferable to this horrible catastrophe that could strike us and that the odds would tend, I think, to indicate that it will strike us if we take that chance. I regret very much that this is the situation, but it's just one of the reasons, one of the defects of our present Constitution, one of the reasons why we are here, and I hope in the one we are producing we are not passing on to some subsequent body the same kind of thing. But, those people who drew this, they didn't foresee this problem. They didn't have any clear intention about this matter because they didn't think about it. I'm quite certain of that. I can't prove it, of course, but I agree that there's no logic to it

STATE PUBLISHING CO. HELENA, MONT.

but yet here it is. We have to live with what we've got. We have to make this difficult decision and hope that we're doing it right. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert, do you want to say a few words before we close?

DELEGATE REICHERT: Yes, Mr. Chairman, because I'm afraid this vote is going to be terribly misconstrued. I know that, as Delegate Joyce said, he's for unicameralism but he's against Delegate Harper's proposal, which seemingly advocated unicameralism because it proposes putting unicameralism in the body, but he feels that bicameral should be in the body. I just hate to see this thing resolved this way because we're not getting the vote we want. We thought that we should let the people know how the Delegates felt about unicameralism. I wish there were some other ways to handle this particular issue. Now, we talked just briefly about this other possibility, which I know I have discussed with you and others. We have in our Legislative Committee attempted in every session to make it uniform between unicameral and bicameral, and I just wish the Style and Drafting Committee could do something about incorporating these ideas for reform into the body of the new Constitution and simply asking the question, do you want a unicameral or a bicameral? We'd have all the reforms regarding bills, organization and procedures. I know that it's been explained to me that this can't be done, but some of these

STATE PUBLISHING CO. HELENA, MONT.

other things, as Delegate Felt brought out, are impossible to live with, too. Thank you.

CHAIRMAN GRAYBILL: Mrs. Reichert, the Chair is concerned that you have this -- still are concerned about this. If we adopt Mr. Felt's final motion to put unicameral in the Constitution, we will have all that language in the Constitution. If we adopt Mr. Joyce's proposal to put bicameral in the Constitution, we will have all that language in the Constitution. The only time we have to tighten up and get most of it in and only leave a little of it out is in the event Mr. Blaylock has the final red light, and at that point, of course, we should consider whether or not to do that, but there's no use in panicking on getting it all in until we decide which way we are going.

DELEGATE REICHERT: Well, that is the key question because that is the only way the people will be given a choice, a real choice, without insisting on putting one or the other. That is the choice that I thought we would give them.

CHAIRMAN GRAYBILL: We are about to start on the second go-around, Mr. Wilson. Do you want to speak again?

DELEGATE WILSON: I rise for a point of information, Mr. President.

CHAIRMAN GRAYBILL: Good. What is it?

DELEGATE WILSON: I simply cannot understand that if we don't vote in the proposed Constitution that we lose the

STATE PUBLISHING CO. HELENA, MONT.

old one. Would somebody clarify that for me? I would think that we lived with the old Constitution for some years and it's probably pretty good and if we don't have this new document, don't we have the old one?

CHAIRMAN GRAYBILL: There's no question that if we don't adopt the new one, we have the old one. The problem and the proposition from which your questions spring, I think is one where it was suggested that we might go, say, Mr. Blaylock's proposal, and we vote for or against the Constitution without clearly defining the legislative article, and that passes, so we have a new Constitution but then both (a) and (b) fail, both unicameral and bicameral fail, and at that point we'd have a new Constitution with no old Constitution unless you wanted to go back in and start -- the court would have to start picking up the pieces and deciding which part of the old one wasn't repealed. That's the only trouble, Mr. Wilson, and I don't know whether we'd have it or we wouldn't, and I don't think anyone here knows until the supreme court would decide whether we had some legislative left or not.

Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I think the proposition enunciated by Delegate Ask is fertile with possibilities and I feel the same way as Delegate Felt, that it would be a horrible situation if we should wake up without it, a legislature, but I think that the Ask proposition can be handled and

STATE PUBLISHING CO. HELENA, MONT.

I think it should be explored before we dive off the bridge.

CHAIRMAN GRAYBILL: Well, will you yield for a question? Will you yield for a question, Mr. Romney?

DELEGATE ROMNEY: Yes, sir.

CHAIRMAN GRAYBILL: All right. Mr. Ask proposed four alternatives and he said vote for one.

DELEGATE ROMNEY: Mr. Chairman, later he amended that statement after his colloquy with you, and said that you'd bracket the four and -- he'll speak to you again.

CHAIRMAN GRAYBILL: Bracket the four and the against on the bicameral, yes.

DELEGATE ASK: I have drawn a picture.

CHAIRMAN GRAYBILL: All right, I'm not against doing it except I really think that's what the other three propositions do, and you can certainly make yours as soon as one is defeated, if you can beat the other guys to the draw, and we can consider it but we've got three other people that have got propositions ready to go here, too, so --

Mr. Blaylock.

DELEGATE BLAYLOCK: Well, Mr. President, I would like to make a suggestion. Now, a few minutes ago, Delegate Harper said he was willing to withdraw his and I think Mr. Davis was up, willing to withdraw his. If these people would withdraw -- agree to -- and we get back to number one, and that either goes up or down, because I'm with Mrs. Reichert. Really,

STATE PUBLISHING CO. HELENA, MONT.

we're not getting a clear vote on unicameral-bicameral. There are other things mixed up in this vote right now. So, if these people would agree to withdraw and come back to number one and either put it up or down -- that's up to you guys -- you people, sorry -- I think this would be the fastest way to solve this and then we could move on and have a clear cut vote on bicameral and unicameral, whether we want to put it in, whatever may be the case. So, I'd like to suggest that, Mr. President.

CHAIRMAN GRAYBILL: Mr. Drum.

DELEGATE DRUM: Mr. Chairman, would you read that motion that I sent up about an hour or hour and a half ago, and that looked like it would give a clear cut decision, and it appears to me that if we were to take a vote of this body, we would then eliminate the question in people's minds as to what or where their position is going to be. If it is --

CHAIRMAN GRAYBILL: All right, I'll read it --

DELEGATE DRUM: -- decided one way or another, then it looks like we can move forward.

CHAIRMAN GRAYBILL: I don't think you need to have -- you're all too worried. The system is going to tell us what happens here as soon as we start voting, but I'll read it. (Reading) The bicameral portion of the Legislative article be included in the body of the Constitution, with the unicameral portion as an alternative when presented to the

STATE PUBLISHING CO. HELENA, MONT.

electorate. (End reading) Now, that is nothing but Mr. -- that's nothing but your amendment to Mr. Felt's first proposition.

DELEGATE DRUM: Mr. Chairman, my amendment to Mr. Felt's proposition still doesn't clarify the issue that he brought two other issues into the thing --

CHAIRMAN GRAYBILL: Right.

DELEGATE DRUM: -- and what I'm saying and what Mrs. Reichert is saying --

CHAIRMAN GRAYBILL: Right.

DELEGATE DRUM: -- and Mr. Joyce is saying and everybody is saying --

CHAIRMAN GRAYBILL: Right.

DELEGATE DRUM: -- if we can get a clear cut vote on this thing it's going to get us all home a lot earlier and it will --

CHAIRMAN GRAYBILL: Now, the Chair is --

DELEGATE DRUM: -- allow us all to make a better decision --

CHAIRMAN GRAYBILL: -- the Chair is --

DELEGATE DRUM: -- on how it's to go on the ballot.

CHAIRMAN GRAYBILL: The Chair is perfectly willing to do whatever they want to do. I've got a Felt motion, I've got your amendment, I've got Davis' substitute motion, and Harper's amendment, and we can go right on up the line and

STATE PUBLISHING CO. HELENA, MONT.

find out where they stand, or they can all withdraw if they want to, but I can't make them.

Mr. Simon.

DELEGATE SIMON: I'm not sure that I understand all of this, but I'm wondering if we're going to get off dead center at all until this body takes the stand that they must vote where they stand first on bicameral and unicameral, and it seems to me that the simple thing we should do first is to just take a vote of this body which we put into the -- just as simple as that. If the bicameral wins, they go in the body. If the unicameral wins they go in the body. Then we don't lose anything.

CHAIRMAN GRAYBILL: That's Mr. Drum's proposal.

DELEGATE SIMON: We're in a position right now that I read about today. There were three fellows. Each went into a liquor store and each of them bought a quart of whiskey. They went out under a tree. It was Tom, Dick and Harry. They drank each one of them a quart of whiskey. Then one of them left, the other two sat there, and in a little while, one of them said, now, one of us got up and walked away and we've got to find out which one. And that's about the position we're in.

CHAIRMAN GRAYBILL: Mr. Simon, you're absolutely right. That's Mr. Drum's point, but the Chair's point is that we have four motions and if they want to withdraw them they

STATE PUBLISHING CO. HELENA, MONT.

can but we have debated them for an hour and maybe we can get at them that way. Another way is to vote on them. So, does anybody want to speak any more or shall we vote?

DELEGATES: Vote.

CHAIRMAN GRAYBILL: Very well, let's vote. The issue is on Mr. Harper's amendment. Now, to set the stage, Mr. Felt made a proposition which is on ballot -- revised ballot number two, the top part thereof is all that's retained because Mr. Drum amended it and Mr. Davis limited it to the bicameral-unicameral issue, and Mr. Harper reversed it to the unicameral-bicameral issue. And so that everyone understands eachother, after we get through voting on this we are not going to be through. You can still amend it and test your next theory out, and Mr. Blaylock can test his theory and Mr. Drum can test his theory, and we can all test our theories as soon as we've had a few votes, so there's nothing magic or final about anything until you're all decided. All right, so many as shall be in favor -- and we're going to have roll call votes, right?

DELEGATES: Yes.

CHAIRMAN GRAYBILL: O.K. So many as shall be in favor of Mr. Harper's amendment which is to include unicameral in the body and put bicameral out in whatever we end up with on Mr. Felt's motion, say Aye -- putting unicameral in and bicameral out. Has every Delegate voted?

STATE PUBLISHING CO. HELENA, MONT.

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote? Mr. Joyce, do you wish to explain your vote?

DELEGATE JOYCE: I wish to explain my vote. I'm voting No even though I'm a unicameralist.

CHAIRMAN GRAYBILL: Very well. Does any other Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, we'll cast the ballot.

Aasheim	- Nay	Blend	- Aye
Anderson, J. H.	- Nay	Bowman	- Aye
Anderson, O.	- Nay	Brazier	- Nay
Arbanas	- Aye	Brown	- Nay
Arness	- Absent	Bugbee	- Aye
Aronow	- Nay	Burkhardt	- Aye
Artz	- Nay	Cain	- Aye
Ask	- Nay	Campbell	- Excused
Babcock	- Nay	Cate	- Aye
Barnard	- Nay	Champoux	- Nay
Bates	- Nay	Choate	- Aye
Belcher	- Nay	Conover	- Nay
Berg	- Nay	Cross	- Aye
Berthelson	- Aye	Dahood	- Aye
Blaylock	- Nay	Davis	- Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Delaney	-	Nay	Kamhoot	-	Nay
2	Driscoll	-	Nay	Kelleher	-	Aye
3	Drum	-	Nay	Leuthold	-	Aye
4	Eck	-	Aye	Loendorf	-	Aye
5	Erdmann	-	Absent	Lorello	-	Nay
6	Eskildsen	-	Nay	Mahoney	-	Nay
7	Etchart	-	Nay	Mansfield	-	Nay
8	Felt	-	Aye	Martin	-	Nay
9	Foster	-	Aye	McCarvel	-	Nay
10	Furlong	-	Aye	McDonough	-	Nay
11	Garlington	-	Nay	McKeon	-	Aye
12	Gysler	-	Nay	McNeil	-	Nay
13	Habedank	-	Aye	Melvin	-	Nay
14	Hanson, R. S.	-	Nay	Monroe	-	Aye
15	Hanson, R.	-	Nay	Murray	-	Aye
16	Harbaugh	-	Aye	Noble	-	Nay
17	Harlow	-	Aye	Nutting	-	Nay
18	Harper	-	Aye	Payne	-	Aye
19	Harrington	-	Aye	Pemberton	-	Nay
20	Heliker	-	Aye	Rebal	-	Absent
21	Holland	-	Aye	Reichert	-	Aye
22	Jacobsen	-	Aye	Robinson	-	Aye
23	James	-	Nay	Roeder	-	Aye
24	Johnson	-	Nay	Rollins	-	Aye
25	Joyce	-	Nay	Romney	-	Nay

STATE PUBLISHING CO. HELENA, MONT. 3

Rygg	-	Nay	Swanberg	-	Aye
Scanlin	-	Aye	Toole	-	Excused
Schiltz	-	Aye	Van Buskirk	-	Nay
Siderius	-	Aye	Vermillion	-	Aye
Simon	-	Aye	Wagner	-	Nay
Skari	-	Aye	Ward	-	Nay
Sparks	-	Nay	Warden	-	Nay
Speer	-	Aye	Wilson	-	Nay
Studer	-	Aye	Woodmansey	-	Aye
Sullivan	-	Nay	Mr. Chairman	-	Nay

CLERK HANSON: Mr. Chairman, forty-four Delegates voting Aye, fifty-one voting No.

CHAIRMAN GRAYBILL: Forty-four having voted Aye and fifty-one having voted No, Mr. Harper's motion is defeated. We are now on Mr. Davis' motion to put bicameral in and unicameral out. Is there discussion?

(No response)

CHAIRMAN GRAYBILL: Very well, so many as shall be in favor of Mr. Davis' motion to put bicameral in and unicameral out, so many vote Aye, and so many as are opposed to Mr. Davis, vote No.

Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I'd like to explain my vote. Even though I am for bicameral, I am voting No.

CHAIRMAN GRAYBILL: Very well. Has every Delegate

STATE PUBLISHING CO. HELENA, MONT.

voted?

Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, even though I am a unicameralist, I'm voting Yes on this.

CHAIRMAN GRAYBILL: Mrs. Eck.

DELEGATE ECK: Mr. Chairman, I'll say the same.

CHAIRMAN GRAYBILL: The same as which?

DELEGATE ECK: That I am a unicameralist and I'm voting for the bicameral in the body.

CHAIRMAN GRAYBILL: O.K., have all the Delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, we'll cast the ballot.

Aasheim	-	Aye	Babcock	-	Aye
Anderson, J. H.	-	Aye	Barnard	-	Aye
Anderson, O.	-	Aye	Bates	-	Aye
Arbanas	-	Aye	Belcher	-	Aye
Arness	-	Absent	Berg	-	Aye
Aronow	-	Aye	Berthelson	-	Nay
Artz	-	Aye	Blaylock	-	Nay
Ask	-	Aye	Blend	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Bowman	-	Aye	Gysler	-	Aye
2	Brazier	-	Aye	Habedank	-	Nay
3	Brown	-	Aye	Hanson, R. S.	-	Aye
4	Bugbee	-	Aye	Hanson, R.	-	Aye
5	Burkhardt	-	Nay	Harbaugh	-	Nay
6	Cain	-	Aye	Harlow	-	Nay
7	Campbell	-	Excused	Harper	-	Nay
8	Cate	-	Nay	Harrington	-	Nay
9	Champoux	-	Aye	Heliker	-	Nay
10	Choate	-	Nay	Holland	-	Nay
11	Conover	-	Nay	Jacobsen	-	Aye
12	Cross	-	Aye	James	-	Aye
13	Dahood	-	Nay	Johnson	-	Aye
14	Davis	-	Aye	Joyce	-	Aye
15	Delaney	-	Aye	Kamhoot	-	Aye
16	Driscoll	-	Aye	Kelleher	-	Nay
17	Drum	-	Aye	Leuthold	-	Nay
18	Eck	-	Aye	Lorendorf	-	Nay
19	Erdmann	-	Absent	Lorello	-	Aye
20	Eskildsen	-	Aye	Mahoney	-	Aye
21	Etchart	-	Aye	Mansfield	-	Aye
22	Felt	-	Nay	Martin	-	Aye
23	Foster	-	Nay	McCarvel	-	Aye
24	Furlong	-	Nay	McDonough	-	Aye
25	Garlington	-	Aye	McKeon	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

McNeil	-	Aye	Siderius	-	Aye
Melvin	-	Aye	Simon	-	Aye
Monroe	-	Nay	Skari	-	Nay
Murray	-	Aye	Sparks	-	Aye
Noble	-	Aye	Speer	-	Nay
Nutting	-	Aye	Studer	-	Aye
Payne	-	Nay	Sullivan	-	Aye
Pemberton	-	Aye	Swanberg	-	Aye
Rebal	-	Absent	Toole	-	Excused
Reichert	-	Nay	Van Buskirk	-	Aye
Robinson	-	Nay	Vermillion	-	Nay
Roeder	-	Aye	Wagner	-	Aye
Rollins	-	Nay	Ward	-	Aye
Romney	-	Nay	Warden	-	Nay
Rygg	-	Aye	Wilson	-	Aye
Scanlin	-	Nay	Woodmansey	-	Nay
Schiltz	-	Nay	Mr. Chairman	-	Aye

CLERK HANSON: Mr. Chairman, sixty Delegates voting Aye, thirty-five voting No.

CHAIRMAN GRAYBILL: Sixty Delegates having voted Aye, thirty-five No, Mr. Davis' substitute motion prevails. Now, Mr. Davis' -- let's understand where we stand. Mr. Davis' substitute motion was to use only the top half of revised ballot two. In other words, he says that we should have a ballot that says: For the proposed Constitution with the

STATE PUBLISHING CO. HELENA, MONT.

bicameral in, and Against the proposed Constitution with the bicameral in, and then, secondly, to replace that by unicameral on the outside. He said nothing about the other two things. Now, at this point, I think Mr. Felt and Mr. Drum are out and we now have the basic proposition which can be amended into any fashion that you want to amend it. We can either put the Joyce matter or we can put the Blaylock matter or you can put some other matter. Mr. Blaylock -- Mr. Joyce, he was up first. Let's let him -- not this time but a long time ago -- let's start with Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I move as a substitute motion that we put the first ballot, or use the first ballot when this goes to the people in June.

CHAIRMAN GRAYBILL: Use what's called the official --

DELEGATE BLAYLOCK: Yes, called the official ballot.

CHAIRMAN GRAYBILL: Called official ballot for purposes of identification. Now, what this means, he's proposed that we use a ballot like the official ballot that was handed out to you today. Now, what this means is that neither bicameral or unicameral would be in, but they would be a co-equal alternative and that's his substitute motion.

Mr. Dahood.

DELEGATE DAHOOD: Will Mr. Blaylock yield to a question?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Yes, Mr. Dahood.

DELEGATE DAHOOD: You know what the question is going to be. Now, Mr. Blaylock, in the event that neither of the propositions or neither of the alternatives receive fifty percent plus one vote, what happens to the legislative body in Montana?

DELEGATE BLAYLOCK: Well, this is why I used the phrase, Mr. Dahood, go for broke. Take a chance on the people voting for this. Now, I would -- my own feelings at this point, in order to assuage your fears and the other fears in here, that I would hope that Mrs. Reichert at this point would amend this to put in the both parts of the bicameral and the unicameral, except for the first one, two and three. That's what I hope for.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: I have a motion to amend the -- Mr. Blaylock's motion to amend so that in the event two-A and two-B did not receive a majority plus one, that thereupon the legislative article would fail and article five of the present Constitution would be incorporated into the remainder of the new Constitution. For the information of the Delegates, article five is the old legislative article.

CHAIRMAN GRAYBILL: All right, Mr. Holland has a substitute -- or has an amendment, an amendment which says that

STATE PUBLISHING CO. HELENA, MONT.

if -- we're going to use the Blaylock format now -- and if neither two-A or two-B get a majority, then old article five is effective.

DELEGATE HOLLAND: Mr. Chairman.

CHAIRMAN GRAYBILL: Is that right?

DELEGATE HOLLAND: Yes.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: The state of Illinois had precisely the same problem we have. They had a Constitution where it required the majority of the voters had to adopt the new constitution, so therefore, on every side issue, they provided that in the event a majority did not adopt the particular side issue, that they would adopt the old -- the portion of the old constitution that would cover the article that would be there. I do this precisely so we will not be branded as the biggest one hundred fools in the state, or in the United States of America. In the event -- and I see this as a real possibility -- that we would adopt a constitution providing in part for a three unit body, legislative, executive and judicial, and not have a legislative branch, and this we cannot allow to happen. We kicked around in committee the possibility of substituting different portions for it. We decided the thing was unrealistic. I suggest to you that in the state of Illinois, all of the side -- the constitution itself and all

STATE PUBLISHING CO. HELENA, MONT.

of the side issues each received a majority so they didn't have to fall back upon it and I'm inclined to think that unicameral -- this is the only way that unicameral and bicameral will ever get a true test from the voters, but I cannot go along with Mr. Blaylock's suggestion that we should just let the thing go. In effect, what I'm saying is, Mr. Blaylock is right. Let's give the voters a clear choice without one or the other being in the body, but in the event of a majority, which I submit the chances are very, very small, we still are not going to be in the foolish position of having a constitution without a legislative body.

CHAIRMAN GRAYBILL: Mrs. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, I think I need your help. I'd like to explain something. It seems to me that the Blaylock and the Holland amendment -- this is on another subject, it's on a basically different kind of ballot. What I would like to do is finish up where we've started now. We have now the bicameral in the body of the material and I would like to suggest that the unicameral -- and then, on the second -- underneath that, that the unicameral be mentioned first and then the bicameral as alternative to that. You see, I'd like to get back on Mr. Davis' motion and get that thing cleaned up through the voting process and then go into the others so we have absolute alternatives that we eventually vote on.

CHAIRMAN GRAYBILL: Then why don't you oppose the

STATE PUBLISHING CO. HELENA, MONT.

Holland amendment and vote No, and if it's defeated, fine, and if its vote yes, then move to amend it after it's in, but to just force me to switch horses now, it merely leaves a dogleg situation here. We now have Mr. Blaylock's substitute motion which did have the effect of raising his issue and we have Mr. Holland's amendment to that, which has the effect of putting into effect article five of the old Constitution if Mr. Blaylock's propositions don't receive fifty-one -- a majority.

Mr. Berg.

DELEGATE BERG: Mr. Chairman, as I said before, I repeat again, I am opposed to Mr. Blaylock's motion. I am equally opposed, or not quite so violently opposed to Mr. Holland's amendment for this reason -- that if you accepted Mr. Blaylock's proposition without Mr. Holland's amendment, you may be sure that you have decimated the legislative article and left the whole matter for the courts to eventually do something with. Whether they could repair the damage or not is highly problematical. If, on the other hand, you were to adopt Mr. Holland's amendment, at least this -- you would know that you were going back to the 1889 legislature, which did not have any of the reforms that we have today. It would not have annual sessions. It would not have the right to reconvene itself. It would be limited to sixty calendar days. It would not have the right to reconvene itself. All of these things would go down the drain, if that is the risk you take

STATE PUBLISHING CO. HELENA, MONT.

and I cannot overemphasize how great that risk actually is, because you must realize that those who vote against the Constitution are not going to be materially concerned with whether you have bicameral or unicameral, so when you come to the second issue on the ballot, you have a very poor chance of ever having a majority for either bicameral or unicameral if you leave it in this state. In my mind, we have here right now the stake of this Constitution. All the reforms that are in it are at stake, and we'd better get this issue straightened around so that we do not lose the Constitution regardless of whether we have unicameral or bicameral. But, let us not risk the chance of going back to the 1889 Constitution legislative article either in whole or in part.

CHAIRMAN GRAYBILL: Very well, we will stand at ease for a moment.

(At ease while tape changed.)

CHAIRMAN GRAYBILL: Members of the body, we'll be in order. We will continue to debate and vote for a while and I think we might solve this. Mr. Harper, you were up.

DELEGATE HARPER: Yes. Mr. Chairman, let me ask you to reason one more little time here. We started this Convention the seventeenth day of January. I don't know when it was we went into the Legislative Committee room to start meeting, but the first thing we decided was we weren't going to

STATE PUBLISHING CO. HELENA, MONT.

be in there unless we tried to write the best of both. We came back to the floor of this Convention. Everybody says that's right. We worked through the unicameral, we worked through the bicameral, we got the best of both. We deliberately wrote it so that in almost every detail the same wording can be used for unicameral or can be used for bicameral. We suggested to the committee that something like this -- they could -- and I'm asking why this couldn't be written into the Constitution like this: If the unicameral alternative listed as issue number one on the ballot prevails, the following shall be sections one, two and three. That's where we say unicameral structure, give the size, and so forth. If the bicameral alternative listed as number one on the ballot prevails, the following shall be sections one, two and three. O.K., we've got that. That's the way Illinois did with theirs. That's the way I understand North Dakota and some of the others are doing with theirs. No hassle, it's just right in there. Now, then, beginning with section four, Qualifications -- I'm almost tempted to ask you to take that article out and we could go down through it. You go all the way through -- only with certain stylistic changes that anybody who didn't know anything could make, about one house or two house --

(Laughter)

DELEGATE HARPER: No, I'm thinking in terms of anybody being able to read. You come up with the idea that if

STATE PUBLISHING CO. HELENA, MONT.

unicameral passes sections one, two or three. If bicameral passes, then its structure. O.K., now let's take Dave Holland's suggestion. If neither one passes, the structure applying from the old Constitution, which would be bicameral, would go in. Admittedly, it wouldn't have any -- it doesn't have a number on it because there's no limit -- bottom or top limit -- but it seems to me that no court, no court would say that that entire article is gone because your propositions on sections one, two and three didn't pass. I just can't see it. And it would be easily drawn together in an article that makes sense. So, I don't think we have to pass up Chet's proposition altogether. Now, then, the second thing. You know, all during the discussion of the Executive article and several other articles, every time things would come up, we'd say, wait a minute. There's going to be a great section of the public decidedly for or against. Now, you tell me one other issue where people are more divided in a knowledgeable way than on this issue. So we wanted not to antagonize one whole bloc of voters, and so we deliberately went that fashion and I still think we can go that fashion.

CHAIRMAN GRAYBILL: Mr. Harper, if Mr. Blaylock's motion prevails, I'll certainly offer you an opportunity to amend or to add, or to fix it so that four through twelve or something are identical, and you can do what you say. Would you yield for one question?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE HARPER: Yes, or more.

CHAIRMAN GRAYBILL: Assuming we fixed that up and did all of that, and then they had the election and neither unicameral or bicameral was adopted --

DELEGATE HARPER: Right.

CHAIRMAN GRAYBILL: -- would you rather have Holland's old amendment -- some of the language from the old Constitution for Holland, or would you rather have the new bicameral article?

DELEGATE HARPER: For sections one, two and three?

CHAIRMAN GRAYBILL: Right.

DELEGATE HARPER: I would prefer to have the new.

CHAIRMAN GRAYBILL: Very well, that's Mr. Joyce's proposition.

DELEGATE HARPER: Yes, except that if we put these two out here in an even battle, it's one thing. To put one in the body of the Constitution is just -- well, you, yourself, and several others have pointed out that it practically affords no real alternative. Unless that thing out on the alternative has got about seventy-five percent of the voters in favor of it, it's not going to carry a majority.

CHAIRMAN GRAYBILL: Mr. Roeder, you haven't been up for a long time.

DELEGATE ROEDER: Sir, I haven't been up today. What Mr. Harper and what Mrs. Reichert really want is part of

STATE PUBLISHING CO. HELENA, MONT.

the Torrey Johnson resolution. They want it as it applies to the Legislative article. Now, last night Mrs. Reichert said she is a very persistent woman. I say Amen to that. Now, Mr. Harper says that anybody who can read can interpolate the common elements of the bicameral and unicameral proposals, where they are not incompatible, whatever that would mean, with the current article five. And he says anyone who can read can do that. Well, there are some lawyers on the Style and Drafting Committee who are going to get up here in a series now and explain to you why Mr. Harper's assertion that anybody who can read can do that, is wrong. If Mr. Harper's proposal eventually prevails, Mr. Chairman, I wish to be removed as a member of the Style Committee because we are going to be here a very long time on the Style Committee and we're going to have to take all the machinery downstairs and retape it, so please listen carefully as our lawyers explain to you why what Harper and Mrs. Reichert are after is not very easy to do. Our legal consultant says it's not possible to do. Now, I appreciate the motives behind Mr. Harper's and Mrs. Reichert's persistence, that is, they feel this is the only way we are ever going to give the people a fair choice. Maybe that's the case, but it's not a possible one in my eyes and I would go back to Mr. Felt's notion that we have to do the best we can within the limitations that were imposed by some emmanuensis who copied language and didn't even have any idea what he was

STATE PUBLISHING CO. HELENA, MONT.

doing to us. But, we can't do that. There are no political Immaculate Conceptions.

CHAIRMAN GRAYBILL: Mr. Harper is not convinced of that.

(Laughter)

CHAIRMAN GRAYBILL: Mr. Joyce.

DELEGATE JOYCE: Mr. Chairman, I move as a substitute motion for all motions pending that this --

CHAIRMAN GRAYBILL: No, we've got one substitute motion and an amendment to it and we can't go anywhere until we dispose of them, Mr. Joyce.

DELEGATE JOYCE: You mean -- I thought we always got three.

CHAIRMAN GRAYBILL: Well, you have three but when you get to a substitute -- and we really have three now.

DELEGATE JOYCE: No, we don't.

CHAIRMAN GRAYBILL: Yes, we do.

DELEGATE JOYCE: We have Blaylock's --

CHAIRMAN GRAYBILL: Would you like me to tell you what they are? We have Mr. Davis' bicameral in and unicameral out, Mr. Blaylock's use the official ballot, and Mr. Holland's amendment to Mr. Blaylock's. Any time you get a substitute motion, you only get one amendment.

DELEGATE JOYCE: Well, Mr. Chairman, may I direct a question to Delegate Holland?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Holland.

DELEGATE HOLLAND: Mr. Joyce.

DELEGATE JOYCE: Mr. Holland, would you mind withdrawing your motion for the time being and then if Blaylock's carries, put it in again?

CHAIRMAN GRAYBILL: Before you say --

DELEGATE HOLLAND: I certainly would, Mr. Joyce.

CHAIRMAN GRAYBILL: Before you say --

DELEGATE JOYCE: You'll withdraw?

DELEGATE HOLLAND: I certainly would mind doing it.

(Laughter)

DELEGATE JOYCE: You won't withdraw, I take it.

CHAIRMAN GRAYBILL: And, Mr. Joyce, your motion -- you see, we've got a substitute motion and whatever you do would have to be material to the substitute motion. It would have to be only an amendment and that may be difficult for you to do at this point.

Mr. Davis.

DELEGATE DAVIS: Mr. Chairman, you mentioned that you had my motion pending. I think that my motion has already been passed. It's no longer pending. Is that correct?

CHAIRMAN GRAYBILL: Well, I guess that's right except that it's incomplete in terms of the -- we haven't got a proposition yet. It's only partly complete. We've settled on that part if that's the way it goes. All right, now, all we

STATE PUBLISHING CO. HELENA, MONT.

have to do is decide whether we're going to do what Holland and Blaylock think, and in case they -- in case Blaylock prevails, then Davis is out and we are on a new proposition. You may amend Blaylock's back but you can't use the -- the Davis motion uses Mr. Felt's basis and the Blaylock motion uses an entirely different theory. Now, if you don't understand that, I'll explain it to you. Mr. Blaylock's was a substitute motion. Mr. Davis' motion says that we're going -- it's based on what's called here revised ballot number two and it says, For the proposed Constitution, including bicameral, and Against the proposed Constitution, including bicameral; and then it's got on the outside for replacing unicameral. But, Mr. Blaylock's motion says, For the Constitution; Against the Constitution; then two-A, For unicameral, For bicameral. So, they are entirely different propositions and one is a substitute motion for the other. And then we have Mr. Holland's amendment which simply is a refinement on Mr. Blaylock's.

Mr. Felt.

DELEGATE FELT: As a point of order, I believe it would be, Mr. Chairman, and certainly conceding that the procedural situation has become somewhat scrambled, I feel that when Mr. Davis' motion carried, those that preceded it, including mine, were out of the picture totally --

CHAIRMAN GRAYBILL: Right.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE FELT: -- but that disposed of the main question and I think Mr. Blaylock, while I did notice he said substitute motion when he placed it, it was actually a main motion because it started fresh. If I am correct in that, then it would appear to me that the Joyce amendment would be in order as a substitute motion.

CHAIRMAN GRAYBILL: Well, but you see, Mr. Felt, it isn't fresh because Mr. Davis won and Mr. Davis is still in the picture.

DELEGATE FELT: Well, --

CHAIRMAN GRAYBILL: We adopted Mr. Davis'. We can't just throw it away, having adopted it. That's where we are right now. We have the bicameral in and the unicameral out on a ballot that we haven't touched the two other problems but which we have solved the top part until it's amended out.

DELEGATE FELT: Well, I would agree that the Blaylock amendment is inconsistent --

CHAIRMAN GRAYBILL: And therefore --

DELEGATE FELT: -- with the action taken on the Davis motion, but even though it is, as long as the motion is entertained, I think that it is a main motion even though it would have the effect of negating what had been previously done.

CHAIRMAN GRAYBILL: Well, all right. You know, I'm trying to keep this on one or two theories at the same time

STATE PUBLISHING CO. HELENA, MONT.

instead of three or four, and we are on a theory that Mr. Blaylock has enunciated and we ought to find out if it prevails or whether it doesn't.

Mr. Swanberg.

DELEGATE SWANBERG: I would like to ask the Chair a question. If we have the bicameral provision in the body of the Constitution, with the unicameral provision as an alternate, will the voter be allowed to vote twice?

CHAIRMAN GRAYBILL: Certainly. He'll be allowed to vote on the body of the thing and he'll be allowed to vote whether or not he wants -- he'll be allowed to vote for the unicameral.

DELEGATE SWANBERG: Yes. Thank you very much.

CHAIRMAN GRAYBILL: All right, Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I want some clarification here. Just exactly what was Blaylock's amendment? Isn't it --

CHAIRMAN GRAYBILL: All right, I'll read -- I'll restate it before I put it. Are you ready to vote? I'll restate it. Now, the situation is this. Mr. Davis proposed that we have a constitutional ballot which says: Vote for the constitution with the bicameral in; or vote against it with the bicameral article in -- vote for or against the constitution with the bicameral article in. And, then, as an outside sub proposition, you may vote for the unicameral art-

STATE PUBLISHING CO. HELENA, MONT.

icle to substitute it in. That's the proposition that's up. But, Mr. Blaylock made a substitute motion that, instead of that, we use a ballot which is now called the official ballot before you, and it doesn't have the bicameral in it at all. It has neither the bicameral or the unicameral in the Constitution. It has for the proposed Constitution, against the proposed Constitution, and then it has for a unicameral or for a bicameral as its second proposition, and in fact it has the same on three and four as you can see if you look at it. Now, that's what we're voting on except that Mr. Holland said that if two-A and two-B don't get a majority, then we will automatically assume and write it on the ballot that the old Constitution article five becomes the law, or remains the law.

DELEGATE BATES: If we vote for Mr. Blaylock's motion, we are then again taking out the bicameral out of the body?

CHAIRMAN GRAYBILL: You certainly are.

DELEGATE BATES: O.K.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I'll have to rise again to a point of order.

CHAIRMAN GRAYBILL: O.K.

DELEGATE AASHEIM: Mr. Davis' was a main motion and it carried. If Mr. Blaylock -- and I hesitate to do this,

STATE PUBLISHING CO. HELENA, MONT.

Chet -- you will have to have a vote on the prevailing side to reconsider this proposition.

CHAIRMAN GRAYBILL: No, I don't think you will because it's a substitute motion and Mr. Davis' -- you may call it a main motion if you want to, and I haven't said whether it is or not -- but Mr. Davis does not have a total ballot before him. He's only got a piece of the ballot.

DELEGATE AASHEIM: Will you state Mr. Felt's motion, original motion?

CHAIRMAN GRAYBILL: Mr. Felt's motion has four -- has three parts to it: one, an alternative with the unicameral in and an alternative with the bicameral out; then it's got the gambling alternative and then it's got the death alternative. Mr. Drum amended that and said he wanted the bicameral in and the unicameral out, plus two and three. Mr. Davis came along and said, I move we drop two and three and just decide one.

DELEGATE AASHEIM: Mr. Davis' motion carried and negated Mr. Drum's and Mr. --

CHAIRMAN GRAYBILL: Felt's.

DELEGATE AASHEIM: -- Felt's. So, this is a major motion and the Convention has decided that the ballot should contain the bicameral as a major issue with the unicameral as a side issue. Consequently, Mr. Blaylock's motion is out of order, and I'll have to challenge the motion of the Chair --

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Well, you may challenge it if you want to, but the Chair is going to rule that it isn't finished and the Chair -- let's put your challenge and we'll find out where we stand. All right, Mr. Aasheim challenges the Chair on my ruling that Mr. Blaylock's motion is in order. Is that correct?

DELEGATE AASHEIM: Yes.

CHAIRMAN GRAYBILL: All right. Now, the Chair has an opportunity to explain his position, so the Chair is going to explain that we have several possibilities before us and it has always been the Chair's desire to allow all of you to test your theories in this market place that we call this Convention, and until we have finally moved the final adoption of any article, we have allowed freely amendments. We don't have to reconsider until we have moved that when this committee does arise and report after da-da-da-da-da, we don't have to ever reconsider within that time. Now, I have always, throughout this Convention, allowed anybody to put any motion because I want your ideas tested, and this body has to finally be brought to the point where it honestly and fairly arrives at something by a majority. Now, there are several untested ideas yet floating around in the market place. Mr. Blaylock has one, Mr. Joyce has one, and Mr. Harper possibly has one. He's got a part of a one. Secondly, the motion we have, which is to put bicameral in and leave unicameral out, does not, in

STATE PUBLISHING CO. HELENA, MONT.

fact, solve the whole ballot problem which is the issue before this body. Now, if you want the bicameralists to steal the march here, and say that they get in on this thing, then sustain Mr. Aasheim, but if you want to hear the rest of them out --

(Interruption from the floor. Inaudible)

CHAIRMAN GRAYBILL: Now, wait a minute. The Chair is going to finish. If you want to hear the rest of them out before you decide what this ballot is going to look like, then you sustain the Chair. Now, if you want to speak, Mr. Drum, you may, but when you finish speaking, I will reserve the right to again state the Chair's position because the Chair has an absolute right to be last on this. You may speak, Mr. Drum.

DELEGATE DRUM: Mr. Chairman, I rise to a point of I believe, personal privilege. The Chair is expressing --

CHAIRMAN GRAYBILL: State your point.

DELEGATE DRUM: -- an opinion. I think you should leave the Chair if you are going to say the bicameralists are stealing the march. You are showing an opinion. You are persuading the people to follow your line of thinking and I don't think it's right for the Chair to do that.

CHAIRMAN GRAYBILL: Well, I -- your point of privilege has been made so there's no use of ruling on it, but the rules do provide that the presiding officer may cast his vote

STATE PUBLISHING CO. HELENA, MONT.

and that I have a right to explain my decision. Now, I haven't libeled or slandered anybody, but I think -- my point is that if the bicameralists are able to now shut off debate so we don't consider the others, they will have then got theirs in. I'm unwilling to do that until everyone's had his say. So, if you want to vote that way for the bicameralists, you do it. I don't think I'm slandering anybody. I'm probably -- in fact, I voted bicameral twice this afternoon but I will certainly state my position and if you don't like it, I'm sorry. You can raise another point of privilege if you like.

Mr. Drum, for what purpose do you rise?

DELEGATE DRUM: I rise to inquire about that amendment that I put in about an hour and forty-five minutes ago that has never been brought before this body, and there have been about four or five different motions that have come up and it has not received due consideration --

CHAIRMAN GRAYBILL: That's right, Mr. Drum --

DELEGATE DRUM: -- and it would have solved the problem.

CHAIRMAN GRAYBILL: -- and your motion and your amendment is after the rest of these, and if I ever get a chance, you're going to get a chance to make it. But, if you prevail in supporting him, you're not going to have a chance to make it. Neither is Mrs. Bates and neither are four or five others. I'm against cutting off debate. If you want to

STATE PUBLISHING CO. HELENA, MONT.

cut off debate on the bicameral going in, vote with Mr. Aasheim. For what purpose do you rise, Mr. Davis?

DELEGATE DAVIS: A question. From some of your conversation, is it your understanding, Mr. President, that we are trying to attempt by my motion not to further consider the death penalty or gambling?

CHAIRMAN GRAYBILL: No, I don't think that's your motion and I don't even think that's Mr. Aasheim's. Mr. Aasheim is trying to freeze into the situation that bicameral must be in when I don't think we have closed off debate on that issue. That's the point. And, if he prevails, it will be on your half motion, which only half deals with the ballot.

Mr. Aasheim, for what purpose do you rise?

DELEGATE AASHEIM: I want to talk, too, on the motion to challenge --

CHAIRMAN GRAYBILL: Pardon? I can't hear you.

DELEGATE AASHEIM: I want to express my feeling here. I'm not trying to freeze --

CHAIRMAN GRAYBILL: Well, now, Mr. Aasheim, you expressed your opinion and the Chair has the right to express his and I don't think you need to express it after me because I then only have to express it over.

DELEGATE AASHEIM: Mr. Chairman, you said that I am trying to freeze something into this thing and I'm not trying to do that, Mr. Chairman.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Well, all right, you may speak then, Mr. Aasheim.

DELEGATE AASHEIM: I am trying -- we have pretty much decided now by vote that the bicameral is supposed to be on the proposition with the Constitution and I feel this, that Mr. Blaylock, if he wants to amend this, if he should move to amend this -- Mr. Davis' motion -- rather than bring in another major substantive motion here, that's my contention, because I'm certainly not -- I'm not happy, I'm not gloating because we got the bicameral in the main issue at all, because I would like to have, like Mrs. Reichert said, I would like to have a choice, but it's apparent we can't have that. And now, then, if we can through amendment of Mr. Davis' proposition, fine. I think that's the course we should take, and Mr. Blaylock's motion, I think, is out of order.

CHAIRMAN GRAYBILL: Well, I understand you think it's out of order, and now so I'll clarify it again, I'd like to point out that the Chair has never in this Convention ruled that no one could amend or change something. In other words, you don't have to move to reconsider until after we have put the proposition, that when this committee does rise and report and finally adopt something. Now, we have not done that about the ballot yet, so your proposition that it takes a motion to reconsider is wrong, in view of what the Chair has done all along up to today, and I asked the body to let me continue to

STATE PUBLISHING CO. HELENA, MONT.

do what I have always done. Secondly, it has always been the Chair's proposition that any time anybody had a proposal, we wanted to let it be aired. There are still proposals before the body which cannot be aired if you prevail. Now, the issue is on the challenge of the Chair. The vote will be by roll call. If you sustain the challenge, you sustain Mr. Aasheim. If you sustain the Chair, you vote No. So, vote Yes to sustain the challenge and vote No to sustain the Chair.

For what purpose do you rise, Mr. Studer?

DELEGATE STUDER: Mr. President, before you put that question, I rise for personal privilege. I want to get this straight before I vote. I don't remember Mr. Blaylock even making a motion. As I understood it, Mr. Harper had a sub to Davis and it was voted down. Blaylock said before that that if we would vote those two down, he would suggest -- he suggested that if we voted those two down, as I understood it, that then he would come in with his motion.

CHAIRMAN GRAYBILL: Right.

DELEGATE STUDER: We voted down Harper's --

CHAIRMAN GRAYBILL: Right.

DELEGATE STUDER: -- but we accepted Davis' --

CHAIRMAN GRAYBILL: Right.

DELEGATE STUDER: -- so now we have it in.

CHAIRMAN GRAYBILL: Then, after that --

DELEGATE STUDER: I don't remember Blaylock making

STATE PUBLISHING CO. HELENA, MONT.

a motion.

CHAIRMAN GRAYBILL: Well, after that, Mr. Studer, Mr. Blaylock did arise and I did recognize Mr. Blaylock and he did make his motion, and then Mr. Holland amended it.

DELEGATE STUDER: O.K.

CHAIRMAN GRAYBILL: O.K., the ballot's open. So many Delegates as want to sustain Mr. Aasheim in his challenge, vote Aye. So many as want to sustain the Chair vote No. Have all the Delegates voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate want to change his vote?

(No response)

CHAIRMAN GRAYBILL: O.K., take the ballot.

Aasheim	-	Aye	Belcher	-	Nay
Anderson, J. H.	-	Aye	Berg	-	Nay
Anderson, O.	-	Absent	Berthelson	-	Nay
Arbanas	-	Absent	Blaylock	-	Nay
Arness	-	Absent	Blend	-	Nay
Aronow	-	Aye	Bowman	-	Nay
Artz	-	Aye	Brazier	-	Nay
Ask	-	Absent	Brown	-	Nay
Babcock	-	Absent	Bugbee	-	Absent
Barnard	-	Aye	Burkhardt	-	Nay
Bates	-	Aye	Cain	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Campbell	-	Excused	Harper	-	Absent
2	Cate	-	Absent	Harrington	-	Nay
3	Champoux	-	Absent	Heliker	-	Nay
4	Choate	-	Nay	Holland	-	Nay
5	Conover	-	Nay	Jacobsen	-	Nay
6	Cross	-	Nay	James	-	Aye
7	Dahood	-	Absent	Johnson	-	Aye
8	Davis	-	Absent	Joyce	-	Nay
9	Delaney	-	Aye	Kamhoot	-	Aye
10	Driscoll	-	Aye	Kelleher	-	Nay
11	Drum	-	Aye	Leuthold	-	Nay
12	Eck	-	Absent	Loendorf	-	Nay
13	Erdmann	-	Absent	Lorello	-	Nay
14	Eskildsen	-	Absent	Mahoney	-	Aye
15	Etchart	-	Nay	Mansfield	-	Nay
16	Felt	-	Nay	Martin	-	Aye
17	Foster	-	Nay	McCarvel	-	Nay
18	Furlong	-	Absent	McDonough	-	Nay
19	Garlington	-	Nay	McKeon	-	Nay
20	Gysler	-	Aye	McNeil	-	Nay
21	Habedank	-	Nay	Melvin	-	Nay
22	Hanson, R. S.	-	Nay	Monroe	-	Nay
23	Hanson, R.	-	Nay	Murray	-	Nay
24	Harbaugh	-	Nay	Noble	-	Nay
25	Harlow	-	Absent	Nutting	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

Payne	-	Nay	Sparks	-	Nay
Pemberton	-	Nay	Speer	-	Nay
Rebal	-	Absent	Studer	-	Aye
Reichert	-	Nay	Sullivan	-	Nay
Robinson	-	Nay	Swanberg	-	Nay
Roeder	-	Nay	Toole	-	Excused
Rollins	-	Nay	Van Buskirk	-	Nay
Romney	-	Nay	Vermillion	-	Nay
Rygg	-	Nay	Wagner	-	Nay
Scanlin	-	Absent	Ward	-	Nay
Schiltz	-	Nay	Warden	-	Nay
Siderius	-	Nay	Wilson	-	Aye
Simon	-	Nay	Woodmansey	-	Nay
Skari	-	Nay	Mr. President	-	Nay

CLERK HANSON: Mr. Chairman, seventeen Delegates voting Aye, sixty-three voting No.

CHAIRMAN GRAYBILL: Sixty-three having voted No and seventeen Aye, the challenge to the Chair is not sustained. Now, we are debating Mr. Holland's amendment, which is that if the Blaylock amendment happened to prevail and neither the bicameral nor the unicameral got a majority, that article five of the old Constitution should then be substituted or should then be considered back in effect. Is there further discussion of Mr. Holland's amendment?

Mr. Dahood.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE DAHOOD: Mr. Chairman, I take it I'm correct that we're still sitting as the Committee of the Whole?

CHAIRMAN GRAYBILL: Right.

DELEGATE DAHOOD: I move that this Committee rise and report progress and beg leave to sit again.

CHAIRMAN GRAYBILL: Very well, the motion is that this committee rise and report progress. All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it and so ordered. We'll write it up.

(Proceedings reverted to Convention with President Graybill presiding.)

PRESIDENT GRAYBILL: Will the Clerk please read the Committee of the Whole report?

CLERK HANSON: (Reading) March 21, 1972. Mr. President: We, your Committee of the Whole, having had under consideration business on general orders, recommend as follows: that the Committee rise and report progress and beg leave to sit again. Signed, Graybill, chairman. (End reading)

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the

STATE PUBLISHING CO. HELENA, MONT.

adoption of the Committee of the Whole report.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report that we rise and report and beg leave to sit again. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed?

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move we stand adjourned until Wednesday, March 22, 1972, at nine o'clock, A.M.

PRESIDENT GRAYBILL: The motion is to adjourn until nine o'clock tomorrow morning. Mr. Schiltz, I understand you want a meeting at eight o'clock in the morning of Style and Drafting.

DELEGATE SCHILTZ: Right.

PRESIDENT GRAYBILL: Very well, all in favor of the motion to adjourn until nine, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention adjourned at 6:15 o'clock, P.M.)

STATE PUBLISHING CO. HELENA, MONT.

MONTANA CONSTITUTIONAL CONVENTION

FIFTY-SECOND DAY

Wednesday, March 22, 1972 Convention Hall

9:25 o'clock, A.M. Helena, Montana

PRESIDENT GRAYBILL: The Convention will come to order. Mr. Drum, will you close the back doors? If you will all stand, Reverend Harbaugh will lead us in Invocation.

DELEGATE HARBAUGH: Let us pray. God, our Father, in these weeks together we have each become aware of our individual strengths and weaknesses. We confess that from time to time we have each yielded to our pet prejudices without thinking of the common good, but we thank you, our Father, that in Your wisdom You have called us together as a collective body and that it is the will of that body which prevails, rather than the will of any one individual. As we finalize our work this week, give us grace and humility to speak not of what we have done as individuals but what we have done as a Convention, and as we reflect on the mechanics of this process which is greater than any one of us, may we be made aware of the movement of Your spirit, which is greater and above and among all of the processes of men. Amen.

PRESIDENT GRAYBILL: We'll take attendance this morning by voting Aye on the voting machines.

CLERK HANSON: Mr. President, may Delegate Campbell

STATE PUBLISHING CO. HELENA, MONT.

be excused this day?

PRESIDENT GRAYBILL: Yes.

CLERK HANSON: Delegate Cate, Delegate Dahood, Delegate Studer, Delegate Rygg, Delegate Robinson.

PRESIDENT GRAYBILL: Will you read the absences again?

CLERK HANSON: Delegate Rygg.

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	-	Present	Brazier	-	Present
Anderson, J. H.	-	Present	Brown	-	Present
Anderson, O.	-	Present	Bugbee	-	Present
Arbanas	-	Present	Burkhardt	-	Present
Arness	-	Present	Cain	-	Present
Aronow	-	Present	Campbell	-	Excused
Artz	-	Present	Cate	-	Present
Ask	-	Present	Champoux	-	Present
Babcock	-	Present	Choate	-	Present
Barnard	-	Present	Conover	-	Present
Bates	-	Present	Cross	-	Present
Belcher	-	Present	Dahood	-	Present
Berg	-	Present	Davis	-	Present
Berthelson	-	Present	Delaney	-	Present
Blaylock	-	Present	Driscoll	-	Present
Blend	-	Present	Drum	-	Present
Bowman	-	Present	Eck	-	Present

STATE PUBLISHING CO. HELENA, MONT.

1	Erdmann	-	Present	Lorello	-	Present
2	Eskildwen	-	Present	Mahoney	-	Present
3	Etchart	-	Present	Mansfield	-	Present
4	Felt	-	Present	Martin	-	Present
5	Foster	-	Present	McCarvel	-	Present
6	Furlong	-	Present	McDonough	-	Present
7	Garlington	-	Present	McKeon	-	Present
8	Gysler	-	Present	McNeil	-	Present
9	Habedank	-	Present	Melvin	-	Present
10	Hanson, R. S.	-	Present	Monroe	-	Present
11	Hanson, R.	-	Present	Murray	-	Present
12	Harbaugh	-	Present	Noble	-	Present
13	Harlow	-	Present	Nutting	-	Present
14	Harper	-	Present	Payne	-	Present
15	Harrington	-	Present	Pemberton	-	Present
16	Heliker	-	Present	Rebal	-	Present
17	Holland	-	Present	Reichert	-	Present
18	Jacobsen	-	Present	Robinson	-	Present
19	James	-	Present	Roeder	-	Present
20	Johnson	-	Present	Rollins	-	Present
21	Joyce	-	Present	Romney	-	Present
22	Kamhoot	-	Present	Rygg	-	Absent
23	Kelleher	-	Present	Scanlin	-	Present
24	Leuthold	-	Present	Schiltz	-	Present
25	Loendorf	-	Present	Siderius	-	Present

STATE PUBLISHING CO. HELENA, MONT.

Simon	-	Present	Van Buskirk	-	Present
Skari	-	Present	Vermillion	-	Present
Sparks	-	Present	Wagner	-	Present
Speer	-	Present	Ward	-	Present
Studer	-	Present	Warden	-	Present
Sullivan	-	Present	Wilson	-	Present
Swanberg	-	Present	Woodmansey	-	Present
Toole	-	Present	Mr. President	-	Present

CLERK HANSON: Mr. President, ninety-eight Delegates present, one excused and one absent.

PRESIDENT GRAYBILL: Very well, the journal may so show. Reports of Standing Committees.

CLERK HANSON: (Reading) Mr. President: We, your Committee on Style, Drafting, Transition and Submission, herewith transmits its final report for consideration of the Convention. Sincerely, John M. Schiltz, chairman. (End reading)

PRESIDENT GRAYBILL: The final report of Style and Drafting is placed on general orders. Reports of Select Committees.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Communications.

CLERK HANSON: (Reading) Helena, Montana, March 22, 1972. Honorable Leo Graybill, Jr., President, Montana Constitutional Convention, Capitol, Helena, Montana. Dear Mr. President: In accordance with the provisions of section 15(2),

STATE PUBLISHING CO. HELENA, MONT.

Extraordinary Senate Bill No. 6, Chapter EX-1, Laws of Montana 1971, the license of Henry E. Lohr, License 3-72, has been reinstated, as of March 21, 1972. Sincerely yours, Frank Murray, Secretary of State. (End reading)

PRESIDENT GRAYBILL: Very well, I would like to explain briefly under Communications where the Chair thinks we are this morning because some of you may not understand yet. We are going down the order of business and when we get to the Committee on Style and Drafting's report, we are going to take it under general orders first today. In the meantime, the Style and Drafting Committee has met and is working up a ballot proposal and when that is finished, either late this morning or right after lunch, we will consider their ballot proposal and we will continue the debate we had yesterday on the ballot, but while that matter is being ironed out in terms of Style and Drafting coming up with their final ballot proposal, we will go ahead and adopt on Style and Drafting, article by article, the minor changes they have made in the constitutional document, and when we have finished -- so you'll understand -- when we have finished adopting it article by article in Committee of the Whole, we will move it all to Adoption, Order of Business number six, and we will adopt it article by article in number six, finally, except that when we finish adopting it all article by article and when we have finished the ballot and moved it and the other articles we are going to have to

STATE PUBLISHING CO. HELENA, MONT.

skip up into adoption, then we will adopt it finally in order of business number six as a whole, and the present plan is to adopt it today or tomorrow and then sign it on Friday morning, as you know, at ten. But, we will finish the adoption whenever we are able to, as soon as we arrive at the ballot and settle the Style and Drafting. So, that's what we're doing. We're going to start on this and go to the ballot later. Very well, Order of Business Number Four, Introduction.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Five, Final Consideration.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Six, Adoption.

CLERK HANSON: None.

PRESIDENT GRAYBILL: There's none there until we put it there today. Order of Business Number Seven, Motions and Resolutions.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Eight, Unfinished Business.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Nine, Special Orders of the Day.

CLERK HANSON: None.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Order of Business Number Ten, General Orders of the Day.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under general orders.

PRESIDENT GRAYBILL: The motion is to resolve the Convention into Committee of the Whole. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention resolved into Committee of the Whole, Delegate Graybill in Chair.)

CLERK HANSON: March 22, 1972. The following committee report is now on General Orders: Final Report.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Eskildsen, will you move that we pass consideration of the partial final report we were working on yesterday and go to Style and Drafting's final report?

DELEGATE ESKILDSEN: I so move, Mr. President -- Mr. Chairman, that we go to the final report.

CHAIRMAN GRAYBILL: All in favor say Aye.

DELEGATES: Aye.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: Very well, if you will turn to that report, and Mr. Schiltz will explain it, but if you'll turn to the first page after the signatures. This report, I think I can say, is somewhat different from the other in that we printed the Constitution clean and explained the differences or the Style and Drafting changes on one sheet, since there were only a few and since it would have required us to print the Constitution, sixty pages, twice to do it the other way. Mr. Schiltz, have I correctly characterized your proposal?

DELEGATE SCHILTZ: Yes, Mr. Chairman. As you -- I would like to make a few remarks first.

CHAIRMAN GRAYBILL: Yes, sir. Please do.

DELEGATE SCHILTZ: As you and possibly the rest of the Convention knows, I haven't had -- we got this late last night and I haven't had any time to do my usual well-referenced job of explaining all this to you, so I'll welcome any comments as I go because I'm going to be feeling my way a little bit. I would also like to say, Mr. Chairman, that we owe a great debt to the staff of the Style and Drafting Committee, Gardiner Cromwell and our two lawyers, Sandy Muckelston and Diana Dowling, and especially to Betty Nelson, who has been the secretary and who knows everything there is to know in this Capitol about printing. If any other state ever has a Constitutional

STATE PUBLISHING CO. HELENA, MONT.

Convention, I would recommend that staff to it. I would also like to commend the committee. It has been an excellent committee. Never once have I had any trouble getting a quorum. They have worked while this organization has been in session, they have come upstairs to pass on things so the Convention wouldn't be delayed in any way, and all in all it has been an excellent committee and a good experience. Now, Mr. Chairman, I would like to say also, we'll take only the first sixty-four pages. The material in the back of the book is the material we were working on yesterday and it will need some revision when we get to the point of recommending a ballot to the Convention. Yesterday, we purposely -- and at the committee's insistence -- I explained the dilemma the committee was in. We wanted to get the sense of this body before we attempted to draft a ballot and we think we did get that sense yesterday, so this afternoon we'll take up the back of the book, which is the adoption schedule, the transition schedule, and the proposed ballot. Mr. Chairman, I move that when this committee does arise and report, after having had -- oh, I'm sorry.

CHAIRMAN GRAYBILL: Mr. Schiltz, first of all, I would like a motion from you to suspend Rule Twenty-Three, the forty-eight hour rule on --

DELEGATE SCHILTZ: Yes, Mr. Chairman. I move to suspend Rule Twenty-Three, the twenty-four hour rule, this not having lain on the desks twenty-four hours.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Forty-eight hours.

DELEGATE SCHILTZ: Forty-eight hours, that's right.

CHAIRMAN GRAYBILL: All those in favor of suspending Rule Twenty-Three, the forty-eight hour rule, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's suspended. Now, Mr. Schiltz, we'll start. Will the Clerk please read the title of the report and the preamble -- just the title of the preamble. Let's take it that way.

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-72. Report of Committee on Style, Drafting, Transition and Submission, Final Report. Reported March 22, 1972, John M. Schiltz, chairman, William Burkhardt, vice chairman. (End reading)

Mr. Chairman, Preamble.

CHAIRMAN GRAYBILL: The preamble is on page one.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Style and Drafting Committee's final report, the preamble thereof, I recommend it adopt the same. Mr. Chairman, there are no changes in the preamble.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Any discussion of the preamble.

(No response)

CHAIRMAN GRAYBILL: All in favor of adopting the preamble say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Article one.

CLERK HANSON: Article one, Compact with the United States, page two.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article number one, Style and Drafting final report, it recommend the same be adopted. Mr. Chairman, there are no changes in the compact.

CHAIRMAN GRAYBILL: Any discussion of article one?

(No response)

CHAIRMAN GRAYBILL: All in favor of article one, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Article two.

CLERK HANSON: Article two, Declaration of Rights,

STATE PUBLISHING CO. HELENA, MONT.

page three.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article two, final report, Style and Drafting Committee, it recommend the same be adopted. Mr. Chairman, we have no changes in the Bill of Rights in article two.

CHAIRMAN GRAYBILL: Article two contains thirty-five sections. Is there any discussion of article two? It has no changes.

(No response)

CHAIRMAN GRAYBILL: All in favor of article two say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Article three.

CLERK HANSON: Article three, General Government, containing nine subsections beginning on page eleven.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz, I think we are going to have to pass article three because we have the two section nines on gambling in article three. Am I correct?

DELEGATE SCHILTZ: You're correct in that, Mr. Chair-

STATE PUBLISHING CO. HELENA, MONT.

man. I was going to suggest that we could possibly approve the drafting, with the understanding that as the proposed ballot will be and it could be revised by any of several proposed ballots that might come up that we -- with the understanding that only one of those gambling sections might be in the Constitution, and then, depending on how that vote goes, we will have approved the style.

CHAIRMAN GRAYBILL: Well, we'll certainly find out. Is there any objection to the style of article three, with the understanding that there are two section nines shown there and that one or the other will probably be left in the Constitution, depending on how the ballot is drafted? We can't finally adopt article three because we cannot say until you have passed on your ballot recommendations exactly what the form of article nine will be. Is there any objection or any discussion of the style? There seem to be no changes.

(No response)

CHAIRMAN GRAYBILL: All in favor of article three as to style, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's O.K. as to style.

DELEGATE SCHILTZ: Mr. Chairman, I don't think I moved it, did I?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Well, I don't think you can move it because I think we do have to come back and --

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: -- adopt it either with one or the other or neither or both in after we get through with the ballot. So, I've only made a note that it's adopted only as to style. Article four.

CLERK HANSON: Article four, Suffrage and Elections, containing six subsections.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article four of the final report of Style and Drafting Committee, it recommend the same be adopted. Mr. Chairman, there are no changes in article four.

CHAIRMAN GRAYBILL: Is there any discussion of article four?

(No response)

CHAIRMAN GRAYBILL: Very well, all in favor of article four say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: All opposed.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Now, again, let's -- the Clerk could read article five, but it's fouled up. Let's

STATE PUBLISHING CO. HELENA, MONT.

discuss our article five. There are two article fives. One begins on page fifteen and one begins on page twenty-three. The one on fifteen is unicameral and the one on twenty-three is bicameral. Now, in addition, there are some style changes in it that I think we could go through and explain and adopt. Do you want to --

DELEGATE SCHILTZ: Well, yes, Mr. Chairman. First of all, if you'll refer to the title page, final report, you will see that we made some changes. We changed from department to branch throughout and you'll find that in section five, article eleven, both unicameral and bicameral. And then -- let me see --

CHAIRMAN GRAYBILL: Section eleven?

DELEGATE SCHILTZ: Section eleven of article five, both unicameral and bicameral, we changed to branch. I don't have it marked so I can't --

CHAIRMAN GRAYBILL: Well, it's in subsection four where it talks about --

DELEGATE SCHILTZ: On page seventeen, the first time.

CHAIRMAN GRAYBILL: -- on page seventeen, line twenty-seven, for one. I think --

DELEGATE SCHILTZ: On page twenty-six, line five.

CHAIRMAN GRAYBILL: Page twenty-six, line five. I think the point for the body is that, as we discussed the other day, we changed the word, department -- or, the Style

STATE PUBLISHING CO. HELENA, MONT.

and Drafting has changed the word, department, to the word, branch, the purpose being that they felt department might be confusing with the twenty departments of the state government but the word, branch, was used then to indicate legislative, executive, judicial branches. Let's get the sense of the body on that. All those in favor of allowing the Style and Drafting to change the word, department, to the word, branch, wherever it appears in the legislative article, please indicate so by saying Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: Now, I think we have adopted that style.

DELEGATE SCHILTZ: Then, Mr. Chairman, we removed one entire section -- the code of ethics -- and you'll find that on page fifty-nine as section four under general provisions, and you'll find the note under --

CHAIRMAN GRAYBILL: Page fifty-four?

DELEGATE SCHILTZ: Yes, but I'm -- or, no, I'm sorry, it's article --

CHAIRMAN GRAYBILL: Fifty-nine. Yes, the code of ethics is now on -- in the general provisions, article thirteen on page fifty-nine.

DELEGATE SCHILTZ: That's another one. Oh, and

STATE PUBLISHING CO. HELENA, MONT.

then, the salary commission which was in the Legislative article, has been moved to section five, subsection two -- or three. Three -- subsection three.

CHAIRMAN GRAYBILL: The salary commission has been moved --

DELEGATE SCHILTZ: And that's on page fifty-nine, too.

CHAIRMAN GRAYBILL: -- to page fifty-nine, also. All right, now, those are items -- on that first page --

DELEGATE SCHILTZ: Then, Mr. Chairman --

CHAIRMAN GRAYBILL: -- that's item two-A and two-C, isn't that right, and you have also moved two-B.

DELEGATE SCHILTZ: That's right. Section sixteen, unicameral, we moved it from article five, and section fifteen of the bicameral, to Revenue and Finance as section fourteen.

CHAIRMAN GRAYBILL: And that's on page forty-three at the bottom if you want to see it. Now, let's take these up one at a time as they appear on that second page of the document here. The first one, two-A, is moving the salary commission from the legislature to the general provisions, and as I recall the discussion on that, the reason for that is the salary commission does relate to more than just the legislature. It says on page fifty-nine: The legislature shall create a salary commission to recommend compensation for the judiciary and elected members of the legislative and

STATE PUBLISHING CO. HELENA, MONT.

executive branches. So, since it covers all branches, the Style and Drafting has moved the salary commission from Legislative to General Provisions.

DELEGATE SCHILTZ: Mr. Chairman, may I make an observation? That's where I got thrown there. On the first page, that should say subsection three.

CHAIRMAN GRAYBILL: I see.

DELEGATE SCHILTZ: Oh, I see -- no, I see where we got confused. It was section five, subsection two, of the Legislature. I see. So, there's no need to make a change. That's all right.

CHAIRMAN GRAYBILL: All right, what we need to know, then, is whether the body approves moving the salary commission from the Legislature to the General Provisions. Is there discussion?

(No response)

CHAIRMAN GRAYBILL: We don't need to put this finally because we'll put the article finally, but all in favor of moving the salary commission from Legislature to General Provisions say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: And it's approved, as to style. All right, now the second one is the prohibited payments sec-

STATE PUBLISHING CO. HELENA, MONT.

tion, and it's been moved from the Legislative section to Revenue and Finance on page forty-three, and it pertains to: Except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law and a warrant drawn by the proper officer in pursuit thereof. Now, it was originally in legislature because it was a limitation, or concerned appropriations, but it has been put in Revenue and Finance as the sort of payments that are prohibited under that title, Prohibited Payments. Is there any discussion of moving that from the Legislative article to the Revenue and Finance article?

(No response)

CHAIRMAN GRAYBILL: If not, all in favor of moving that prohibited payments article, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: That's adopted as to style.

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I have now got this straight. We apparently got one number off somewhere here, so on that first page, under salary commission, the last word should be section three instead of section four.

CHAIRMAN GRAYBILL: O.K., we'll make that amendment

STATE PUBLISHING CO. HELENA, MONT.

on our books.

DELEGATE SCHILTZ: And then, under code of ethics, instead of section five it should be section four. And under exemption laws, it should be section six -- or section five instead of six on the last word -- five instead of six. And then under perpetuities, it should be six instead of seven.

CHAIRMAN GRAYBILL: Well, I hate to argue with you but I think you've just -- I've just checked the code of ethics, Mr. Schiltz, but it moved from the Legislature, and I haven't checked that, to article thirteen, General Provisions, and in General Provisions, it's -- you're right, it's --

DELEGATE SCHILTZ: That's salary commission.

CHAIRMAN GRAYBILL: Section four. I see. O.K. So, are you saying then that the changes are on the salary commission, we changed to section -- the last section number under General Provisions -- to section three --

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: And under code of ethics we changed it to section four under General Provisions.

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: Is that all?

DELEGATE SCHILTZ: No. Exemption laws, the last word should be -- the last numeral should be five instead of six.

CHAIRMAN GRAYBILL: How about perpetuities?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SCHILTZ: And perpetuities should be six instead of seven.

CHAIRMAN GRAYBILL: Somebody ran the wrong series there. All right. Now, we are down to the code of ethics. The code of ethics was originally in the Legislative article and it has been moved to the General Provisions article, as section four. Is there any discussion about that?

(No response)

CHAIRMAN GRAYBILL: The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees. And since it was broadened to include all and since it is a code of ethics, it was put in General Provisions instead of the Legislative article. Any discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of moving the code of ethics to the General Provisions article say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted, as to style. Now, except for those changes, the two Legislative articles -- the one beginning on page fifteen and the one beginning on page twenty-three -- have no other style changes in them, do they,

STATE PUBLISHING CO. HELENA, MONT.

Mr. Schiltz?

DELEGATE SCHILTZ: No other changes.

CHAIRMAN GRAYBILL: All right. Is there any discussion of them?

Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, I notice this heading is non-municipal corporations and I happened to be on the committee that worked down through section two, but I was not on the committee that worked over here and I just want to get in the record that I had no part of a salary commission nor code of ethics at all, as far as the committee I was on. I'm just trying to get that into the record so that it will get out here and come out and think that I had been on that and it was not on my committee.

DELEGATE SCHILTZ: Mr. Chairman, I think the major headnotes may have confused Mr. Mahoney. This is article thirteen, which is General Provisions, and then it has various subsections.

CHAIRMAN GRAYBILL: Only section one is non-municipal corporations, Mr. Mahoney.

DELEGATE MAHONEY: Section one and two both came out of the Committee on Public Health and Welfare --

CHAIRMAN GRAYBILL: Right.

DELEGATE MAHONEY: Both of those did and the others were not.

STATE PUBLISHING CO HELENA, MONT.

CHAIRMAN GRAYBILL: Right -- that's right.

DELEGATE MAHONEY: I just wanted the record to show.

CHAIRMAN GRAYBILL: Right, it shows it. Very well, is there other discussion of the Legislative articles on page fifteen and twenty-three, as to style?

(No response)

CHAIRMAN GRAYBILL: Now, we are going to pass article five as to final form because this will depend perhaps -- could depend perhaps -- on the form of the ballot, but is there any discussion of them otherwise?

(No response)

CHAIRMAN GRAYBILL: If not, all in favor of the two Legislative articles as to style, please say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: They're adopted as to style. Now, Mr. Clerk, read section six.

CLERK HANSON: Article six, the Executive, containing fifteen subsections.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration Article Six, Style and Drafting final report, it recommend the same be adopted. Mr. Chairman, there are no

STATE PUBLISHING CO. HELENA, MONT.

changes in the Executive.

CHAIRMAN GRAYBILL: Unfortunately, I have to argue with you. Your thing says we changed branch -- department to branch --

DELEGATE SCHILTZ: Oh, that's right --

CHAIRMAN GRAYBILL: -- on sections one, four, five and fifteen.

DELEGATE SCHILTZ: That's right. I'm sorry. I was already down to two.

CHAIRMAN GRAYBILL: You can see at the beginning of the article where it says the executive branch includes the governor, and so forth. So, throughout the Executive article, the Style and Drafting Committee has changed the word, department, to branch, to distinguish it from the twenty departments. Is there any discussion of that change?

(No response)

CHAIRMAN GRAYBILL: All in favor of changing department to branch in sections one, four, five and fifteen of article six, which is the Executive article, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: All right, we've adopted that change as to style. Now, I think we can adopt the whole thing, if you want to put your motion again, Mr. Schiltz.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SCHILTZ: Yes, Mr. Chairman. I move that when this committee does arise and report, after having had under consideration section -- or, article six, Style and Drafting final report, it recommend the same be adopted.

CHAIRMAN GRAYBILL: Is there any discussion of article six?

(No response)

CHAIRMAN GRAYBILL: All in favor of article six say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Article seven.

CLERK HANSON: Article seven, the Judiciary, containing eleven subsections, beginning on page thirty-six.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article seven, Style and Drafting final report, it recommend the same be adopted. Mr. Chairman, you will note the change from this article. Section twelve was transferred to section thirteen, General Provisions, as section five.

CHAIRMAN GRAYBILL: All right, we moved out of Judiciary and into that same General Provisions article the small section on exemption laws -- the legislature shall enact

STATE PUBLISHING CO. HELENA, MONT.

liberal homestead and exemption laws. We moved that out of Judiciary -- Style and Drafting did -- and into General Provisions.

DELEGATE SCHILTZ: And the same is true, Mr. Chairman, as to subsection six -- or, section six of General Provisions.

CHAIRMAN GRAYBILL: Right. We moved perpetuities out of Judiciary into General Provisions where it says: No perpetuities shall be allowed except for charitable purposes. Is there any discussion of moving the exemption laws from Judiciary to General Provisions?

(No response)

CHAIRMAN GRAYBILL: All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: All right. Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted as to style. Is there any objection, or is there any discussion of moving perpetuities from Judiciary to General Provisions?

(No response)

CHAIRMAN GRAYBILL: All in favor of that say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted as to style. Now,

STATE PUBLISHING CO. HELENA, MONT.

we've adopted as to style (A), (B), (C), (D) and (E) of number two. Now, Mr. Schiltz, I think we can adopt, or at least we can decide whether to adopt Judiciary itself, beginning on page thirty-six.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section seven -- or, article seven, Style and Drafting report number -- or, final report -- it recommend the same be adopted.

CHAIRMAN GRAYBILL: Except for the two deletions we made, there are no other changes in section --

DELEGATE SCHILTZ: No other changes.

CHAIRMAN GRAYBILL: Is there any discussion of article six?

(No response)

CHAIRMAN GRAYBILL: Very well, all in favor of article six of Style and Drafting say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATE SCHILTZ: Mr. Chairman, that was article seven.

CHAIRMAN GRAYBILL: I'm sorry -- article seven on the Judiciary. All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted.

Mr. Clerk.

CLERK HANSON: Article eight, Revenue and Finance, containing fourteen subsections, beginning on page forty-one.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article eight, Style and Drafting final report, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: The only change is that we added a section, which you all approved a few --

DELEGATE SCHILTZ: Which has already been approved, right.

CHAIRMAN GRAYBILL: Right. Is there any discussion?

DELEGATE SCHILTZ: Wait a minute. We've got one here. On page forty-three we took out what is subsection two of thirteen. The first sentence which reads: The public school fund and the permanent funds of the Montana university system -- because it has already been -- no, no, that isn't the one. Wait a minute. We're working on this one, Mr. Chairman. Well, that's our third comment, Mr. Chairman. In order to avoid repeating a sentence identical to that appearing as section three of article ten, Education, the first sentence of

STATE PUBLISHING CO. HELENA, MONT.

subsection two, section thirteen, under Revenue and Finance was deleted.

CHAIRMAN GRAYBILL: All right.

DELEGATE SCHILTZ: Now, if you look on page -- where is that?

CHAIRMAN GRAYBILL: You've got to go to article ten to find out what it was.

DELEGATE SCHILTZ: Yes. On page forty-eight it says -- section three -- it says the public school fund shall remain forever inviolate, guaranteed by the state against loss or diversion. Oh, I see. On page forty-three, we left that one in, I guess -- no, let me see, that's article -- oh, we didn't change that at all, did we? Yes, we took that sentence out so it wouldn't appear in both sections. I'm sorry, Mr. Chairman, and members of the committee, that I didn't get all that much time to work on this this morning.

CHAIRMAN GRAYBILL: Which one did you take out and which one did you put in?

DELEGATE SCHILTZ: On page forty-eight, Revenue and Finance, we took out section -- we took a sentence out from somewhere else and put it in here, I guess.

CHAIRMAN GRAYBILL: Mr. Rygg.

DELEGATE RYGG: First, may my presence be noted in the journal?

CHAIRMAN GRAYBILL: Your presence may be noted in

STATE PUBLISHING CO. HELENA, MONT.

the journal, Mr. Rygg.

DELEGATE RYGG: Well, I came in late. It looks to me like subsection two of section thirteen has been deleted. Is that correct? Is that now in Education and Public Lands?

DELEGATE SCHILTZ: Mr. Chairman, I think I have it straight now. On page forty-three there had been that same sentence that you will now find over on page forty-eight as section three. It occurred in two places in the Constitution so we left it in on page forty-eight and deleted it, and it appeared as subsection two but is no longer there.

CHAIRMAN GRAYBILL: All right. The Chair thinks he understands. On page forty-eight you will find a section three on line five, and it says -- it's in Education -- it says: The public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion. Now, that used to be the first sentence of thirteen, sub two. And then it used to say: The public school fund and permanent funds of the Montana university system shall be safely invested. Is that right?

DELEGATE SCHILTZ: That's correct.

CHAIRMAN GRAYBILL: All right, so the sentence which is still in the public school -- still in as the public school fund inviolate on page forty-eight used to be the beginning of section thirteen, sub two. It's now been deleted.

DELEGATE SCHILTZ: Because they appeared in both

STATE PUBLISHING CO. HELENA, MONT.

places.

CHAIRMAN GRAYBILL: That is comment number three on the first page that we're working on there. Is there any discussion on it by anyone?

(No response)

CHAIRMAN GRAYBILL: It's still in. It's just in a different place. All right, all in favor of allowing the Style and Drafting change which moved from the Revenue and Finance to the Education article that sentence, or left it only in the Education article -- all in favor of that change -- it's number three there -- say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: All right, it's adopted as to style. Now, with that change, would you move --

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having under consideration article eight, final Style and Drafting report, it recommend the same be adopted.

CHAIRMAN GRAYBILL: And article eight is the Revenue and Finance article, right?

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: Beginning on page forty-one. Is there any discussion?

STATE PUBLISHING CO. HELENA, MONT.

(No response)

CHAIRMAN GRAYBILL: All in favor of article eight, Revenue and Finance, as Style and Drafting has amended it, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: All right, it's adopted. Now, would the Clerk read article nine.

CLERK HANSON: Article nine, Environment and Natural Resources, containing four subsections, page forty-five and forty-six.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article nine, Environment and Natural Resources article, Style and Drafting final report, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Any discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of article nine say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Will the Clerk read article ten?

CLERK HANSON: Article ten, Education and Public Lands, containing eleven subsections, pages forty-seven through fifty-two.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article ten, Education and Public Lands, Style and Drafting final report, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Is there any discussion of article ten?

(No response)

CHAIRMAN GRAYBILL: All in favor of article ten, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. Article eleven.

CLERK HANSON: Article eleven, Local Government, containing nine subsections, pages fifty-three through fifty-six.

Mr. Chairman.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article eleven, Local Government, Style and Drafting final report, that it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Any discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of Local Government article eleven say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Article twelve.

CLERK HANSON: Article twelve, Departments and Institutions, containing three sections, page fifty-seven and fifty-eight.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article twelve, Departments and Institutions, Style and Drafting final report, it recommend the same be adopted. Mr. Chairman, this is a gathering of three or four items that didn't fall -- three items -- that didn't fall in any other particular place and we called it -- we took -- we called it Departments and Institutions, being three sections--

STATE PUBLISHING CO. HELENA, MONT.

the department of agriculture, department of labor, and then a general provision having to do with institutions and assistance.

CHAIRMAN GRAYBILL: Is there any discussion of article twelve?

(No response)

CHAIRMAN GRAYBILL: All in favor of article twelve, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Article thirteen. Now, Mr. Schiltz, on article thirteen on the first page, you have a change from branch to department, but it's in article thirteen, section three instead of section four.

DELEGATE SCHILTZ: That's right. It should be three.

CHAIRMAN GRAYBILL: Is there any discussion of the change --

DELEGATE SCHILTZ: Which would be line twenty-five.

CHAIRMAN GRAYBILL: -- from the word, department, to the word, branch?

(No response)

CHAIRMAN GRAYBILL: All in favor of changing department to branch say Aye.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Now, other than that, we have all the additions that we have discussed already. We have put perpetuities in there, exemption laws in there, code of ethics in there, and salary commission in there. But, other than that, there are no other style changes.

Mr. Schiltz.

DELEGATE SCHILTZ: I don't think he's read the title.

CLERK HANSON: Article thirteen, General Provisions, containing six sections, page fifty-nine and sixty.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article thirteen, Style and Drafting final report, General Provisions, that it recommend the same be adopted. As you have noted, the changes -- and there are no other changes from the material that we gathered this from -- it hasn't been changed otherwise.

CHAIRMAN GRAYBILL: Any discussion of article thirteen?

(No response)

CHAIRMAN GRAYBILL: All in favor of article thirteen

STATE PUBLISHING CO. HELENA, MONT.

say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted.

CLERK HANSON: Article fourteen --

CHAIRMAN GRAYBILL: Article fourteen.

CLERK HANSON: -- containing eleven sections, Constitutional Revision, pages sixty-one through sixty-four.

Mr. Chairman.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article fourteen, Constitutional Revision, final Style and Drafting Committee report, it recommend the same be adopted. Mr. Chairman, there are no changes.

CHAIRMAN GRAYBILL: Any discussion of article fourteen?

(No response)

CHAIRMAN GRAYBILL: All in favor of article fourteen say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted. All right, we have adopted as to style articles one to fourteen, except for

STATE PUBLISHING CO. HELENA, MONT.

articles three and five which we have passed because of the ballot problem. Mr. Eskildsen, I think the committee should rise and finally report on all articles except three and five.

DELEGATE ESKILDSEN: Mr. Chairman, I move that the committee rise and finally report on all articles except section three and section five.

CHAIRMAN GRAYBILL: You have heard the motion. Is there any objection?

(No response)

CHAIRMAN GRAYBILL: All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: We'll rise and finally report on all articles except three and five, including the preamble.

(Proceedings moved to Convention with President Graybill presiding.)

PRESIDENT GRAYBILL: Will the Clerk please read the committee report?

CLERK HANSON: (Reading) March 22, 1972. Mr. President, we, your Committee of the Whole, having had under consideration business on General Orders, recommend as follows: That the committee rise and finally report on Preamble and all articles except articles three and five. Signed, Graybill,

STATE PUBLISHING CO. HELENA, MONT.

chairman.

DELEGATE ESKILDSEN: Mr. President.

PRESIDENT GRAYBILL: Just a moment. Does anyone want the report read in full?

(No response)

PRESIDENT GRAYBILL: Very well.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move for the adoption of the Committee of the Whole report and refer the report of the Committee on Style, Drafting, Transition and Submission final report, to Order of Business Number Six.

PRESIDENT GRAYBILL: The motion is to adopt the Committee of the Whole report and refer it to Order of Business Number Six. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered. Without objection, we will revert to Order of Business Number Six. Is there objection?

(No response)

PRESIDENT GRAYBILL: Very well, we are on Order of Business Number Six. Now, ladies and gentlemen, on Order of Business Number Six, we will today finally adopt article by article, including the preamble, the sections we have just ap-

STATE PUBLISHING CO. HELENA, MONT.

proved, except for three and five. And, of course, when we have adopted three and five and the ballot and other appurtenances, we will then adopt the Constitution as a whole. We are not going to adopt it as a whole now, but we're going to adopt -- or, at least we're going to put the question on one through fourteen, except for three and five, including the preamble. This is on final adoption. It's roll call vote. No debate. Will the Clerk please read the title of the preamble and the article?

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-72. Report of Committee on Style, Drafting, Transition and Submission, Final Report. Schiltz, chairman.

PRESIDENT GRAYBILL: Order of Business Number Six.

CLERK HANSON: Order of Business Number Six. Preamble.

Mr. President.

PRESIDENT GRAYBILL: For final consideration. So many as shall be in favor of the preamble, vote Aye on the voting machines. So many as shall be opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Preamble. Vote Aye if you are in favor of the preamble. Vote No if you are opposed to the preamble. Has every Delegate voted?

(No response)

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please cast the ballot.

Aasheim	-	Aye	Cain	-	Aye
Anderson, J. H.	-	Aye	Campbell	-	Excused
Anderson, O.	-	Aye	Cate	-	Absent
Arbanas	-	Aye	Champoux	-	Aye
Arness	-	Aye	Choate	-	Aye
Aronow	-	Aye	Conover	-	Aye
Artz	-	Aye	Cross	-	Aye
Ask	-	Aye	Dahood	-	Absent
Babcock	-	Aye	Davis	-	Aye
Barnard	-	Aye	Delaney	-	Aye
Bates	-	Aye	Driscoll	-	Aye
Belcher	-	Aye	Drum	-	Aye
Berg	-	Aye	Eck	-	Aye
Berthelson	-	Aye	Erdmann	-	Aye
Blaylock	-	Aye	Eskildsen	-	Aye
Blend	-	Aye	Etchart	-	Aye
Bowman	-	Aye	Felt	-	Aye
Brazier	-	Aye	Foster	-	Aye
Brown	-	Aye	Furlong	-	Aye
Bugbee	-	Aye	Garlington	-	Aye
Burkhardt	-	Aye	Gysler	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Habedank	-	Aye	Melvin	-	Aye
2	Hanson, R. S.	-	Aye	Monroe	-	Aye
3	Hanson, R.	-	Aye	Murray	-	Absent
4	Harbaugh	-	Absent	Noble	-	Aye
5	Harlow	-	Aye	Nutting	-	Aye
6	Harper	-	Aye	Payne	-	Aye
7	Harrington	-	Aye	Pemberton	-	Aye
8	Heliker	-	Aye	Rebal	-	Aye
9	Holland	-	Absent	Reichert	-	Aye
10	Jacobsen	-	Aye	Robinson	-	Aye
11	James	-	Aye	Roeder	-	Aye
12	Johnson	-	Aye	Rollins	-	Aye
13	Joyce	-	Aye	Romney	-	Aye
14	Kamhoot	-	Aye	Rygg	-	Aye
15	Kelleher	-	Aye	Scanlin	-	Aye
16	Leuthold	-	Aye	Schiltz	-	Aye
17	Loendorf	-	Aye	Siderius	-	Aye
18	Lorello	-	Aye	Simon	-	Aye
19	Mahoney	-	Aye	Skari	-	Aye
20	Mansfield	-	Aye	Sparks	-	Aye
21	Martin	-	Aye	Speer	-	Aye
22	McCarvel	-	Aye	Studer	-	Aye
23	McDonough	-	Aye	Sullivan	-	Aye
24	McKeon	-	Aye	Swanberg	-	Aye
25	McNeil	-	Aye	Toole	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

Van Buskirk	-	Aye	Warden	-	Aye
Vermillion	-	Absent	Wilson	-	Aye
Wagner	-	Aye	Woodmansey	-	Aye
Ward	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, ninety-three Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Very well, ninety-three having voted Aye, the preamble is adopted. Article one.

CLERK HANSON: Article one, Compact with the United States.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of article one, vote Aye on the voting machines; opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Aye	Artz	-	Aye
Anderson, O.H.	-	Aye	Ask	-	Aye
Anderson, O.	-	Aye	Babcock	-	Aye
Arbanas	-	Aye	Barnard	-	Aye
Arness	-	Aye	Bates	-	Aye
Aronow	-	Aye	Belcher	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Berg	-	Aye	Felt	-	Aye
2	Berthelson	-	Aye	Foster	-	Aye
3	Blaylock	-	Aye	Furlong	-	Aye
4	Blend	-	Aye	Garlington	-	Aye
5	Bowman	-	Aye	Gysler	-	Aye
6	Brazier	-	Aye	Habedank	-	Aye
7	Brown	-	Aye	Hanson, R. S.	-	Aye
8	Bugbee	-	Aye	Hanson, R.	-	Aye
9	Burkhardt	-	Aye	Harbaugh	-	Aye
10	Cain	-	Aye	Harlow	-	Aye
11	Campbell	-	Excused	Harper	-	Aye
12	Cate	-	Absent	Harrington	-	Aye
13	Champoux	-	Aye	Heliker	-	Aye
14	Choate	-	Aye	Holland	-	Aye
15	Conover	-	Aye	Jacobsen	-	Aye
16	Cross	-	Aye	James	-	Aye
17	Dahood	-	Absent	Johnson	-	Aye
18	Davis	-	Aye	Joyce	-	Aye
19	Delaney	-	Aye	Kamhoot	-	Aye
20	Driscoll	-	Aye	Kelleher	-	Aye
21	Drum	-	Aye	Leuthold	-	Aye
22	Eck	-	Aye	Loendorf	-	Aye
23	Erdmann	-	Aye	Lorello	-	Aye
24	Eskildsen	-	Aye	Mahoney	-	Aye
25	Etchart	-	Aye	Mansfield	-	Aye

STATE PUBLISHING CO. HELENA, MONT. 3

Martin	-	Aye	Scanlin	-	Aye
McCarvel	-	Aye	Schiltz	-	Aye
McDonough	-	Aye	Siderius	-	Aye
McKeon	-	Aye	Simon	-	Aye
McNeil	-	Aye	Skari	-	Aye
Melvin	-	Aye	Sparks	-	Aye
Monroe	-	Nay	Speer	-	Aye
Murray	-	Aye	Studer	-	Aye
Noble	-	Aye	Sullivan	-	Aye
Nutting	-	Aye	Swanberg	-	Aye
Payne	-	Aye	Toole	-	Aye
Pemberton	-	Aye	Van Buskirk	-	Aye
Rebal	-	Aye	Vermillion	-	Aye
Reichert	-	Aye	Wagner	-	Aye
Robinson	-	Aye	Ward	-	Aye
Roeder	-	Aye	Warden	-	Aye
Rollins	-	Aye	Wilson	-	Aye
Romney	-	Aye	Woodmansey	-	Aye
Rygg	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, ninety-six Delegates voting Aye, one voting No.

PRESIDENT GRAYBILL: Very well, article one is adopted. Article two.

CLERK HANSON: Article two, Declaration of Rights, containing thirty-five sections.

STATE PUBLISHING CO. HELENA, MONT.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of the Declaration of Rights vote Aye on the voting machines; so many as are opposed vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Aye	Bowman	-	Aye
Anderson, J. H.	-	Aye	Brazier	-	Aye
Anderson, O.	-	Aye	Brown	-	Aye
Arbanas	-	Aye	Bugbee	-	Aye
Arness	-	Aye	Burkhardt	-	Aye
Aronow	-	Aye	Cain	-	Aye
Artz	-	Aye	Campbell	-	Excused
Ask	-	Aye	Cate	-	Absent
Babcock	-	Aye	Champoux	-	Aye
Barnard	-	Aye	Choate	-	Aye
Bates	-	Aye	Conover	-	Aye
Belcher	-	Aye	Cross	-	Aye
Berg	-	Aye	Dahood	-	Absent
Berthelson	-	Aye	Davis	-	Aye
Blaylock	-	Aye	Delaney	-	Aye
Blend	-	Aye	Driscoll	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Drum	-	Aye	Leuthold	-	Aye
2	Eck	-	Aye	Loendorf	-	Aye
3	Erdmann	-	Aye	Lorello	-	Aye
4	Eskildsen	-	Aye	Mahoney	-	Aye
5	Etchart	-	Aye	Mansfield	-	Aye
6	Felt	-	Aye	Martin	-	Aye
7	Foster	-	Aye	McCarvel	-	Aye
8	Furlong	-	Aye	McDonough	-	Aye
9	Garlington	-	Aye	McKeon	-	Aye
10	Gysler	-	Aye	McNeil	-	Aye
11	Habedank	-	Aye	Melvin	-	Aye
12	Hanson, R. S.	-	Aye	Monroe	-	Aye
13	Hanson, R.	-	Aye	Murray	-	Aye
14	Harbaugh	-	Aye	Noble	-	Aye
15	Harlow	-	Aye	Nutting	-	Aye
16	Harper	-	Aye	Payne	-	Aye
17	Harrington	-	Aye	Pemberton	-	Aye
18	Heliker	-	Aye	Rebal	-	Aye
19	Holland	-	Aye	Reichert	-	Aye
20	Jacobsen	-	Aye	Robinson	-	Aye
21	James	-	Aye	Roeder	-	Aye
22	Johnson	-	Nay	Rollins	-	Aye
23	Joyce	-	Aye	Romney	-	Aye
24	Kamhoot	-	Nay	Rygg	-	Absent
25	Kelleher	-	Aye	Scanlin	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

Schiltz	-	Aye	Toole	-	Aye
Siderius	-	Aye	Van Buskirk	-	Aye
Simon	-	Aye	Vermillion	-	Aye
Skari	-	Aye	Wagner	-	Aye
Sparks	-	Aye	Ward	-	Aye
Speer	-	Aye	Warden	-	Aye
Studer	-	Absent	Wilson	-	Nay
Sullivan	-	Aye	Woodmansey	-	Aye
Swanberg	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, ninety-two Delegates voting Aye, three voting No.

PRESIDENT GRAYBILL: Very well, article two is adopted. Article four. Article four.

(Inaudible comment from floor.)

PRESIDENT GRAYBILL: No, we skipped three because three has to be withheld for the ballot.

CLERK HANSON: Article four, Suffrage and Elections, containing six sections.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of article four, Suffrage and Elections, vote Aye on the voting machines. So many as shall be opposed vote No. Has every Delegate voted?

(No response)

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Aye	Cain	-	Aye
Anderson, J. H.	-	Aye	Campbell	-	Excused
Anderson, O.	-	Aye	Cate	-	Absent
Arbanas	-	Aye	Champoux	-	Aye
Arness	-	Aye	Choate	-	Aye
Arnow	-	Aye	Conover	-	Aye
Artz	-	Aye	Cross	-	Aye
Ask	-	Aye	Dahood	-	Absent
Babcock	-	Aye	Davis	-	Aye
Barnard	-	Aye	Delaney	-	Aye
Bates	-	Aye	Driscoll	-	Aye
Belcher	-	Aye	Drum	-	Aye
Berg	-	Aye	Eck	-	Aye
Berthelson	-	Aye	Erdmann	-	Aye
Blaylock	-	Aye	Eskildsen	-	Aye
Blend	-	Aye	Etchart	-	Aye
Bowman	-	Aye	Felt	-	Aye
Brazier	-	Aye	Foster	-	Aye
Brown	-	Aye	Furlong	-	Aye
Bugbee	-	Aye	Garlington	-	Aye
Burkhardt	-	Aye	Gysler	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Habedank	-	Aye	Melvin	-	Aye
2	Hanson, R. S.	-	Aye	Monroe	-	Aye
3	Hanson, R.	-	Aye	Murray	-	Aye
4	Harbaugh	-	Aye	Noble	-	Aye
5	Harlow	-	Aye	Nutting	-	Aye
6	Harper	-	Aye	Payne	-	Aye
7	Harrington	-	Aye	Pemberton	-	Aye
8	Heliker	-	Aye	Rebal	-	Aye
9	Holland	-	Aye	Reichert	-	Aye
10	Jacobsen	-	Aye	Robinson	-	Aye
11	James	-	Aye	Roeder	-	Aye
12	Johnson	-	Aye	Rollins	-	Aye
13	Joyce	-	Aye	Romney	-	Aye
14	Kamhoot	-	Aye	Rygg	-	Aye
15	Kelleher	-	Aye	Scanlin	-	Aye
16	Leuthold	-	Aye	Schiltz	-	Aye
17	Loendorf	-	Aye	Siderius	-	Aye
18	Lorello	-	Aye	Simon	-	Aye
19	Mahoney	-	Aye	Skari	-	Aye
20	Mansfield	-	Aye	Sparks	-	Aye
21	Martin	-	Aye	Speer	-	Aye
22	McCarvel	-	Aye	Studer	-	Aye
23	McDonough	-	Aye	Sullivan	-	Aye
24	McKeon	-	Aye	Swanberg	-	Aye
25	McNeil	-	Aye	Toole	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Van Buskirk	-	Aye	Warden	-	Aye
Vermillion	-	Aye	Wilson	-	Aye
Wagner	-	Aye	Woodmansey	-	Aye
Ward	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, ninety-seven Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Ninety-seven having voted Aye, section four is adopted. I presume you all read in the paper that we are just one step ahead of the supreme court on that section. Section six. We skip section five. Section six.

CLERK HANSON: Section six, the Executive, containing fifteen sections, page twenty-nine.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of section six on the Executive, vote Aye on the voting machines; so many as are opposed vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Aye	Arbanas	-	Aye
Anderson, J. H.	-	Aye	Arness	-	Nay
Anderson, O.	-	Aye	Aronow	-	Aye

STATE PUBLISHING CO. HELENA, MONT. 3

1	Artz	-	Aye	Driscoll	-	Aye
2	Ask	-	Aye	Drum	-	Aye
3	Babcock	-	Aye	Eck	-	Aye
4	Barnard	-	Aye	Erdmann	-	Absent
5	Bates	-	Aye	Eskildsen	-	Aye
6	Belcher	-	Aye	Etchart	-	Aye
7	Berg	-	Aye	Felt	-	Aye
8	Berthelson	-	Aye	Foster	-	Aye
9	Blaylock	-	Aye	Furlong	-	Aye
10	Blend	-	Aye	Garlington	-	Aye
11	Bowman	-	Aye	Gysler	-	Aye
12	Brazier	-	Aye	Habedank	-	Aye
13	Brown	-	Aye	Hanson, R. S.	-	Aye
14	Bugbee	-	Absent	Hanson, R.	-	Aye
15	Burkhardt	-	Aye	Harbaugh	-	Nay
16	Cain	-	Aye	Harlow	-	Aye
17	Campbell	-	Excused	Harper	-	Aye
18	Cate	-	Absent	Harrington	-	Aye
19	Champoux	-	Aye	Heliker	-	Nay
20	Choate	-	Aye	Holland	-	Aye
21	Conover	-	Aye	Jacobsen	-	Aye
22	Cross	-	Aye	James	-	Aye
23	Dahood	-	Absent	Johnson	-	Aye
24	Davis	-	Aye	Joyce	-	Aye
25	Delaney	-	Aye	Kamhoot	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

Kelleher	-	Nay	Rollins	-	Aye
Leuthold	-	Aye	Romney	-	Aye
Loendorf	-	Aye	Rygg	-	Aye
Lorello	-	Aye	Scanlin	-	Aye
Mahoney	-	Nay	Schiltz	-	Aye
Mansfield	-	Aye	Siderius	-	Aye
Martin	-	Aye	Simon	-	Aye
McCarvel	-	Aye	Skari	-	Aye
McDonough	-	Aye	Sparks	-	Aye
McKeon	-	Aye	Speer	-	Nay
McNeil	-	Aye	Studer	-	Aye
Melvin	-	Aye	Sullivan	-	Aye
Monroe	-	Nay	Swanberg	-	Aye
Murray	-	Aye	Toole	-	Aye
Noble	-	Aye	Van Buskirk	-	Aye
Nutting	-	Aye	Vermillion	-	Aye
Payne	-	Aye	Wagner	-	Aye
Pemberton	-	Aye	Ward	-	Aye
Rebal	-	Aye	Warden	-	Aye
Reichert	-	Nay	Wilson	-	Aye
Robinson	-	Aye	Woodmansey	-	Aye
Roeder	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-seven Delegates voting Aye, eight voting No.

PRESIDENT GRAYBILL: Very well, section six is

STATE PUBLISHING CO. HELENA, MONT.

adopted. Section seven.

CLERK HANSON: Section -- or, article seven, the Judiciary, containing eleven sections.

Mr. President.

PRESIDENT GRAYBILL: All right, I guess it was article six that we adopted, not a section. O.K. So many as shall be in favor of article seven vote Aye on the voting machines; opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Any Delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Aye	Berg	-	Aye
Anderson, J. H.	-	Aye	Berthelson	-	Aye
Anderson, O.	-	Aye	Blaylock	-	Aye
Arbanas	-	Aye	Blend	-	Aye
Arness	-	Nay	Bowman	-	Aye
Aronow	-	Nay	Brazier	-	Aye
Artz	-	Aye	Brown	-	Nay
Ask	-	Aye	Bugbee	-	Aye
Babcock	-	Aye	Burkhardt	-	Aye
Barnard	-	Aye	Cain	-	Aye
Bates	-	Aye	Campbell	-	Excused
Belcher	-	Aye	Cate	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

Champoux	-	Aye	Heliker	-	Aye
Choate	-	Aye	Holland	-	Aye
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Absent	Johnson	-	Aye
Davis	-	Aye	Joyce	-	Aye
Delaney	-	Aye	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Nay
Drum	-	Aye	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Aye
Eskildsen	-	Nay	Mahoney	-	Nay
Etchart	-	Nay	Mansfield	-	Aye
Felt	-	Nay	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Aye	McKeon	-	Aye
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Nay	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Aye
Hanson, R.	-	Aye	Murray	-	Aye
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Nay
Harper	-	Aye	Payne	-	Aye
Harrington	-	Aye	Pemberton	-	Aye

STATE PUBLISHING CO. HELENA, MONT. 3

Rebal	-	Aye	Speer	-	Nay
Reichert	-	Nay	Studer	-	Aye
Robinson	-	Aye	Sullivan	-	Aye
Roeder	-	Aye	Swanberg	-	Aye
Rollins	-	Aye	Toole	-	Aye
Romney	-	Nay	Van Buskirk	-	Aye
Rygg	-	Aye	Vermillion	-	Aye
Scanlin	-	Aye	Wagner	-	Aye
Schiltz	-	Aye	Ward	-	Aye
Siderius	-	Aye	Warden	-	Aye
Simon	-	Aye	Wilson	-	Aye
Skari	-	Aye	Woodmansey	-	Aye
Sparks	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-four Delegates voting Aye, thirteen voting No.

PRESIDENT GRAYBILL: Very well, article seven is adopted. Article eight.

CLERK HANSON: Article eight, Revenue and Finance, containing fourteen sections.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of article eight, vote Aye on the voting machines. So many as are opposed vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to

STATE PUBLISHING CO. HELENA, MONT.

change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Nay	Campbell	-	Excused
Anderson, J. H.	-	Nay	Cate	-	Absent
Anderson, O.	-	Nay	Champoux	-	Aye
Arbanas	-	Aye	Choate	-	Nay
Arness	-	Aye	Conover	-	Aye
Aronow	-	Nay	Cross	-	Aye
Artz	-	Aye	Dahood	-	Absent
Ask	-	Nay	Davis	-	Nay
Babcock	-	Nay	Delaney	-	Nay
Barnard	-	Nay	Driscoll	-	Aye
Bates	-	Nay	Drum	-	Aye
Belcher	-	Aye	Eck	-	Aye
Berg	-	Aye	Erdmann	-	Nay
Berthelson	-	Aye	Eskildsen	-	Nay
Blaylock	-	Aye	Etchart	-	Nay
Blend	-	Aye	Felt	-	Nay
Bowman	-	Aye	Foster	-	Aye
Brazier	-	Nay	Furlong	-	Aye
Brown	-	Aye	Garlington	-	Aye
Bugbee	-	Aye	Dysler	-	Nay
Burkhardt	-	Aye	Habedank	-	Aye
Cain	-	Aye	Hanson, R. S.	-	Nay

STATE PUBLISHING CO. HELENA, MONT. 3

1	Hanson, R.	-	Nay	Murray	-	Aye
2	Harbaugh	-	Aye	Noble	-	Aye
3	Harlow	-	Aye	Nutting	-	Nay
4	Harper	-	Aye	Payne	-	Aye
5	Harrington	-	Aye	Pemberton	-	Aye
6	Heliker	-	Aye	Rebal	-	Aye
7	Holland	-	Aye	Reichert	-	Aye
8	Jacobsen	-	Aye	Robinson	-	Aye
9	James	-	Aye	Roeder	-	Aye
10	Johnson	-	Nay	Rollins	-	Aye
11	Joyce	-	Aye	Romney	-	Aye
12	Kamhoot	-	Nay	Rygg	-	Aye
13	Kelleher	-	Aye	Scanlin	-	Aye
14	Leuthold	-	Aye	Schiltz	-	Aye
15	Loendorf	-	Aye	Siderius	-	Aye
16	Lorello	-	Aye	Simon	-	Aye
17	Mahoney	-	Nay	Skari	-	Aye
18	Mansfield	-	Nay	Sparks	-	Aye
19	Martin	-	Aye	Speer	-	Aye
20	McCarvel	-	Aye	Studer	-	Nay
21	McDonough	-	Aye	Sullivan	-	Aye
22	McKeon	-	Aye	Swanberg	-	Aye
23	McNeil	-	Nay	Toole	-	Aye
24	Melvin	-	Aye	Van Buskirk	-	Nay
25	Monroe	-	Aye	Vermillion	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Wagner	-	Aye	Wilson	-	Nay
Ward	-	Aye	Woodmansey	-	Aye
Warden	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, sixty-nine Delegates voting Aye, twenty-eight voting No.

PRESIDENT GRAYBILL: Very well, article eight is adopted. Article nine.

CLERK HANSON: Article nine, Environment and Natural Resources, containing four sections.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of article nine vote Aye; so many as shall be opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	-	Aye	Ask	-	Aye
Anderson, J. H.	-	Aye	Babcock	-	Aye
Anderson, O.	-	Aye	Barnard	-	Aye
Arbanas	-	Aye	Bates	-	Aye
Arness	-	Aye	Belcher	-	Aye
Aronow	-	Aye	Berg	-	Aye
Artz	-	Aye	Berthelson	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Blaylock	-	Aye	Furlong	-	Aye
Blend	-	Aye	Garlington	-	Aye
Bowman	-	Aye	Gysler	-	Aye
Brazier	-	Aye	Habedank	-	Aye
Brown	-	Aye	Hanson, R. S.	-	Aye
Bugbee	-	Aye	Hanson, R.	-	Aye
Burkhardt	-	Aye	Harbaugh	-	Aye
Cain	-	Aye	Harlow	-	Aye
Campbell	-	Excused	Harper	-	Aye
Cate	-	Absent	Harrington	-	Aye
Champoux	-	Aye	Heliker	-	Aye
Choate	-	Aye	Holland	-	Aye
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Absent	Johnson	-	Aye
Davis	-	Aye	Joyce	-	Aye
Delaney	-	Aye	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Aye
Drum	-	Aye	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Aye
Eskildsen	-	Aye	Mahoney	-	Aye
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Aye	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

McDonough	-	Aye		Schiltz	-	Aye
McKeon	-	Aye		Siderius	-	Aye
McNeil	-	Aye		Simon	-	Aye
Melvin	-	Aye		Skari	-	Aye
Monroe	-	Aye		Sparks	-	Aye
Murray	-	Aye		Speer	-	Aye
Noble	-	Aye		Studer	-	Aye
Nutting	-	Aye		Sullivan	-	Aye
Payne	-	Aye		Swanberg	-	Absent
Pemberton	-	Aye		Toole	-	Absent
Rebal	-	Aye		Van Buskirk	-	Aye
Reichert	-	Aye		Vermillion	-	Aye
Robinson	-	Aye		Wagner	-	Aye
Roeder	-	Aye		Ward	-	Aye
Rollins	-	Aye		Warden	-	Aye
Romney	-	Aye		Wilson	-	Aye
Rygg	-	Aye		Woodmansey	-	Aye
Scanlin	-	Aye		Mr. President	-	Aye

CLERK HANSON: Mr. President, ninety-five Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Very well, article nine is adopted. Article ten.

CLERK HANSON: Article ten, Education and Public Lands, containing eleven sections.

Mr. President.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: So many as shall be in favor of article ten, vote Aye; so many as shall be opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim - Aye	Blend - Nay		
Anderson, J. H. - Nay	Bowman - Aye		
Anderson, O. - Aye	Brazier - Aye		
Arbanas - Aye	Brown - Aye		
Arness - Nay	Bugbee - Aye		
Aronow - Nay	Burkhardt - Aye		
Artz - Nay	Cain - Aye		
Ask - Nay	Campbell - Excused		
Babcock - Nay	Cate - Absent		
Barnard - Nay	Champoux - Aye		
Bates - Nay	Choate - Aye		
Belcher - Nay	Conover - Aye		
Berg - Aye	Cross - Aye		
Berthelson - Aye	Dahood - Absent		
Blaylock - Aye	Davis - Aye		

STATE PUBLISHING CO. HELENA, MONT.

1	Delaney	-	Nay	Kamhoot	-	Nay
2	Driscoll	-	Nay	Kelleher	-	Aye
3	Drum	-	Aye	Leuthold	-	Aye
4	Eck	-	Aye	Loendorf	-	Aye
5	Erdmann	-	Nay	Lorello	-	Aye
6	Eskildsen	-	Nay	Mahoney	-	Nay
7	Etchart	-	Nay	Mansfield	-	Nay
8	Felt	-	Aye	Martin	-	Aye
9	Foster	-	Aye	McCarvel	-	Aye
10	Furlong	-	Aye	McDonough	-	Aye
11	Garlington	-	Aye	McKeon	-	Aye
12	Gysler	-	Nay	McNeil	-	Nay
13	Habedank	-	Aye	Melvin	-	Aye
14	Hanson, R. S.	-	Nay	Monroe	-	Nay
15	Hanson, R.	-	Nay	Murray	-	Aye
16	Harbaugh	-	Aye	Noble	-	Aye
17	Harlow	-	Aye	Nutting	-	Nay
18	Harper	-	Aye	Payne	-	Aye
19	Harrington	-	Aye	Pemberton	-	Aye
20	Heliker	-	Aye	Rebal	-	Aye
21	Holland	-	Aye	Reichert	-	Aye
22	Jacobsen	-	Aye	Robinson	-	Aye
23	James	-	Aye	Roeder	-	Aye
24	Johnson	-	Nay	Rollins	-	Aye
25	Joyce	-	Aye	Romney	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Rygg	-	Nay	Swanberg	-	Aye
Scanlin	-	Aye	Toole	-	Aye
Schiltz	-	Aye	Van Buskirk	-	Aye
Siderius	-	Aye	Vermillion	-	Aye
Simon	-	Aye	Wagner	-	Nay
Skari	-	Aye	Ward	-	Nay
Sparks	-	Aye	Warden	-	Nay
Speer	-	Aye	Wilson	-	Nay
Studer	-	Nay	Woodmansey	-	Aye
Sullivan	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, sixty-six Delegates voting Aye, thirty-one voting No.

PRESIDENT GRAYBILL: Very well, article ten is adopted. Article eleven.

CLERK HANSON: Article eleven, Local Government, containing nine sections.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of article eleven vote Aye. So many as shall be opposed vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

STATE PUBLISHING CO. HELENA, MONT.

1	Aasheim	-	Aye	Choate	-	Aye
2	Anderson, J. H.	-	Aye	Conover	-	Aye
3	Anderson, O.	-	Aye	Cross	-	Aye
4	Arbanas	-	Aye	Dahood	-	Absent
5	Arness	-	Aye	Davis	-	Aye
6	Aronow	-	Aye	Delaney	-	Aye
7	Artz	-	Aye	Driscoll	-	Aye
8	Ask	-	Aye	Drum	-	Aye
9	Babcock	-	Aye	Eck	-	Aye
10	Barnard	-	Aye	Erdmann	-	Aye
11	Bates	-	Aye	Eskildsen	-	Aye
12	Belcher	-	Aye	Etchart	-	Aye
13	Berg	-	Aye	Felt	-	Aye
14	Berthelson	-	Aye	Foster	-	Aye
15	Blaylock	-	Aye	Furlong	-	Aye
16	Blend	-	Aye	Garlington	-	Aye
17	Bowman	-	Aye	Gysler	-	Aye
18	Brazier	-	Aye	Habedank	-	Aye
19	Brown	-	Aye	Hanson, R. S.	-	Aye
20	Bugbee	-	Aye	Hanson, R.	-	Aye
21	Burkhardt	-	Aye	Harbaugh	-	Aye
22	Cain	-	Aye	Harlow	-	Aye
23	Campbell	-	Excused	Harper	-	Aye
24	Cate	-	Absent	Harrington	-	Aye
25	Champoux	-	Aye	Heliker	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Holland	-	Nay	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Aye	Scanlin	-	Aye
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Aye	Skari	-	Aye
Mansfield	-	Aye	Sparks	-	Aye
Martin	-	Aye	Speer	-	Aye
McCarvel	-	Aye	Studer	-	Aye
McDonough	-	Aye	Sullivan	-	Aye
McKeon	-	Aye	Swanberg	-	Aye
McNeil	-	Aye	Toole	-	Aye
Melvin	-	Aye	Van Buskirk	-	Aye
Monroe	-	Aye	Vermillion	-	Aye
Murray	-	Aye	Wagner	-	Aye
Noble	-	Aye	Ward	-	Aye
Nutting	-	Aye	Warden	-	Aye
Payne	-	Aye	Wilson	-	Aye
Pemberton	-	Aye	Woodmansey	-	Aye
Rebal	-	Aye	Mr. President	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

CLERK HANSON: Mr. President, ninety-six Delegates voting Aye, one voting No.

PRESIDENT GRAYBILL: Very well, article eleven is adopted. Article twelve.

CLERK HANSON: Article twelve, Departments and Institutions, containing three sections.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of article twelve vote Aye; opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim - Absent	Bates - Aye
Anderson, J. H. - Aye	Belcher - Aye
Anderson, O. - Aye	Berg - Aye
Arbanas - Aye	Berthelson - Aye
Arness - Aye	Blaylock - Aye
Aronow - Aye	Blend - Aye
Artz - Aye	Bowman - Nay
Ask - Aye	Brazier - Aye
Babcock - Aye	Brown - Nay
Barnard - Aye	Bugbee - Aye

STATE PUBLISHING CO. HELENA, MONT.

Burkhardt	-	Aye	Harbaugh	-	Aye
Cain	-	Aye	Harlow	-	Aye
Campbell	-	Excused	Harper	-	Aye
Cate	-	Absent	Harrington	-	Aye
Champoux	-	Aye	Heliker	-	Aye
Choate	-	Aye	Holland	-	Aye
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Absent	Johnson	-	Aye
Davis	-	Aye	Joyce	-	Aye
Delaney	-	Aye	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Aye
Drum	-	Aye	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Aye
Eskildsen	-	Aye	Mahoney	-	Aye
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Aye	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Aye	McKeon	-	Aye
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Nay
Hanson, R.	-	Aye	Murray	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Noble	-	Aye	Skari	-	Aye
Nutting	-	Aye	Sparks	-	Aye
Payne	-	Aye	Speer	-	Aye
Pemberton	-	Aye	Studer	-	Nay
Rebal	-	Aye	Sullivan	-	Aye
Reichert	-	Aye	Swanberg	-	Aye
Robinson	-	Aye	Toole	-	Aye
Roeder	-	Nay	Van Buskirk	-	Aye
Rollins	-	Aye	Vermillion	-	Aye
Romney	-	Aye	Wagner	-	Aye
Rygg	-	Aye	Ward	-	Aye
Scanlin	-	Aye	Warden	-	Aye
Schiltz	-	Absent	Wilson	-	Aye
Siderius	-	Aye	Woodmansey	-	Aye
Simon	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, ninety Delegates voting Aye, five voting No.

PRESIDENT GRAYBILL: Very well, article twelve is adopted. Article thirteen.

CLERK HANSON: Article thirteen, General Provisions, containing six sections.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of article thirteen vote Aye on the voting machines; so many as shall be opposed, vote No. Has every Delegate voted?

STATE PUBLISHING CO. HELENA, MONT.

(No response)

PRESIDENT GRAYBILL: Does any Delegate want to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Aye	Burkhardt	-	Aye
Anderson, J. H.	-	Nay	Cain	-	Aye
Anderson, O.	-	Aye	Campbell	-	Excused
Arbanas	-	Aye	Cate	-	Absent
Arness	-	Aye	Champoux	-	Aye
Aronow	-	Aye	Choate	-	Aye
Artz	-	Aye	Conover	-	Aye
Ask	-	Nay	Cross	-	Aye
Babcock	-	Nay	Dahood	-	Absent
Barnard	-	Aye	Davis	-	Aye
Bates	-	Aye	Delaney	-	Aye
Belcher	-	Aye	Driscoll	-	Aye
Berg	-	Aye	Drum	-	Aye
Berthelson	-	Aye	Eck	-	Aye
Blaylock	-	Aye	Erdmann	-	Aye
Blend	-	Aye	Eskildsen	-	Nay
Bowman	-	Nay	Etchart	-	Aye
Brazier	-	Aye	Felt	-	Nay
Brown	-	Nay	Foster	-	Aye
Bugbee	-	Aye	Furlong	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Garlington	-	Aye	McKeon	-	Aye
Gysler	-	Nay	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Nay
Hanson, R.	-	Aye	Murray	-	Aye
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Nay
Harper	-	Aye	Payne	-	Aye
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Aye
Holland	-	Aye	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Aye	Scanlin	-	Aye
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Nay	Skari	-	Aye
Mansfield	-	Aye	Sparks	-	Aye
Martin	-	Aye	Speer	-	Aye
McCarvel	-	Aye	Studer	-	Aye
McDonough	-	Aye	Sullivan	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Swanberg	-	Aye	Ward	-	Nay
Toole	-	Aye	Warden	-	Aye
Van Buskirk	-	Aye	Wilson	-	Nay
Vermillion	-	Aye	Woodmansey	-	Aye
Wagner	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-four Delegates voting Aye, thirteen voting No.

PRESIDENT GRAYBILL: Very well, article thirteen is adopted. Article fourteen.

CLERK HANSON: Article fourteen, Constitutional Revision, containing eleven sections.

Mr. President.

PRESIDENT GRAYBILL: So many as shall be in favor of article fourteen vote Aye on the voting machines. So many as are opposed vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Cast the ballot.

Aasheim	-	Aye	Aronow	-	Aye
Anderson, J. H.	-	Aye	Artz	-	Aye
Anderson, O.	-	Aye	Ask	-	Aye
Arbanas	-	Aye	Babcock	-	Aye
Arness	-	Nay	Barnard	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Bates	-	Aye	Eskildsen	-	Aye
2	Belcher	-	Aye	Etchart	-	Aye
3	Berg	-	Aye	Felt	-	Aye
4	Berthelson	-	Aye	Foster	-	Aye
5	Blaylock	-	Aye	Furlong	-	Aye
6	Blend	-	Aye	Garlington	-	Aye
7	Bowman	-	Aye	Gysler	-	Absent
8	Brazier	-	Aye	Habedank	-	Aye
9	Brown	-	Aye	Hanson, R. S.	-	Aye
10	Bugbee	-	Aye	Hanson, R.	-	Aye
11	Burkhardt	-	Aye	Harbaugh	-	Aye
12	Cain	-	Aye	Harlow	-	Aye
13	Campbell	-	Excused	Harper	-	Aye
14	Cate	-	Absent	Harrington	-	Aye
15	Champoux	-	Aye	Heliker	-	Aye
16	Choate	-	Aye	Holland	-	Aye
17	Conover	-	Aye	Jacobsen	-	Aye
18	Cross	-	Aye	James	-	Aye
19	Dahood	-	Absent	Johnson	-	Aye
20	Davis	-	Aye	Joyce	-	Aye
21	Delaney	-	Aye	Kamhoot	-	Nay
22	Driscoll	-	Aye	Kelleher	-	Aye
23	Drum	-	Aye	Leuthold	-	Aye
24	Eck	-	Aye	Loendorf	-	Aye
25	Erdmann	-	Aye	Lorello	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.

Mahoney	-	Aye	Rygg	-	Aye
Mansfield	-	Aye	Scanlin	-	Nay
Martin	-	Aye	Schiltz	-	Aye
McCarvel	-	Aye	Siderius	-	Aye
McDonough	-	Aye	Simon	-	Aye
McKeon	-	Aye	Skari	-	Aye
McNeil	-	Aye	Sparks	-	Aye
Melvin	-	Aye	Speer	-	Aye
Monroe	-	Aye	Studer	-	Aye
Murray	-	Aye	Sullivan	-	Aye
Noble	-	Aye	Swanberg	-	Aye
Nutting	-	Aye	Toole	-	Aye
Payne	-	Aye	Van Buskirk	-	Aye
Pemberton	-	Aye	Vermillion	-	Aye
Rebal	-	Aye	Wagner	-	Aye
Reichert	-	Aye	Ward	-	Aye
Robinson	-	Aye	Warden	-	Aye
Roeder	-	Aye	Wilson	-	Aye
Rollins	-	Aye	Woodmansey	-	Aye
Romney	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, ninety-three Delegates voting Aye, three voting No.

PRESIDENT GRAYBILL: Ninety-three Delegates having voted Aye and three having voted No, section fourteen is adopted. Ladies and gentlemen, you have adopted the preamble

STATE PUBLISHING CO. HELENA, MONT.

and sections one through fourteen, except three and five which have been retained. We will retain these sections and the preamble --

CLERK HANSON: Articles.

PRESIDENT GRAYBILL: Article -- article -- these articles and the preamble in Order of Business Number Six, pending the arrival, hopefully, of the ballot and the other articles. Very well, without objections, I would like to be on Order of Business Number Eleven for a minute. Order of Business Number Eleven is Announcements. We are having a dinner tomorrow night at the Montana Club, the usual five dollar rate, including two drink tickets. The drinks will be on the third floor this time and dinner will be set up on the sixth floor, as usual. I think Mrs. Payne has styled it an awards dinner, and your wives and out of town guests are invited. We do need some reservations. We don't have everyone's reservation, I hope, that's coming and we do need your reservations. This will be Thursday night before the final signing on Friday morning. The signing on Friday morning is at ten o'clock. If you have friends from out of town you'd better let them know because the newspaper did carry a one o'clock or one-thirty notice, which was wrong. Ten o'clock in the morning, barring any unforeseen difficulties. Are there other announcements?

Mr. Habedank.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE HABEDANK: I don't wish to make an announcement, just ask a question. Someone called me the other day and said that they read in the papers where passes would be necessary to be here for the signing of the Convention. Is this correct?

PRESIDENT GRAYBILL: It is my understanding from Mr. Garlington that that is not correct. There will be some seats saved in the front for our dignitaries. Other than that, we are going to set up as many extra chairs as we can in the aisles. We thought we would avoid the problem of trying to assign seats and let those first come, first served. I might just remind you, it amuses me, when I think back to the first discussion and debate that this group had, which was how many seats to give ourselves in the balcony -- that took us an hour and a half and didn't make any difference. So, based on that, we decided not to bother assigning seats, so tell them to come and we will hope for the best.

Mr. Schiltz.

DELEGATE SCHILTZ: Style and Drafting Committee will meet immediately upon recess.

PRESIDENT GRAYBILL: Now, we're planning to recess until eleven o'clock. At eleven o'clock, we'll come back into session and Style and Drafting will be ready on the ballot. I would like to point out that we will recess reasonably promptly at twelve o'clock, regardless of the status of the

STATE PUBLISHING CO. HELENA, MONT.

debate, since there is a luncheon today for some of the wives and so forth and the President gets to talk at that luncheon, so we've got to go.

Mr. Martin.

DELEGATE MARTIN: Mr. President, yesterday we ran out of people in the audience because of all the committee meetings elsewhere, and there are three committee chairmen who didn't have a chance to report--Chairman Heliker and Chairman Etchart and the Judiciary. If we could have some time today in which they might have an opportunity to participate I think it would be helpful.

PRESIDENT GRAYBILL: I think it would be, too. I think -- Style and Drafting needs to go now -- let's plan to do that if we can adjourn before five o'clock tonight, but we will plan to let those three have five minutes at the end of the day.

DELEGATE MARTIN: One other -- or, two other things, if I may. I would appreciate if the chairmen of the substantive committees would get their letters to me some time today, and I appreciate the support and recognize the difficulties that they're having, but if they could get -- if I could have those, I would appreciate it very much. And, then, I might report that in response to my questionnaire, I have at the moment fifty-two responses. I would like to have a little -- a few more and I'm sure that the other Delegates will bring

STATE PUBLISHING CO. HELENA, MONT.

them to my desk. I'll appreciate it.

PRESIDENT GRAYBILL: They have twenty-five minutes to work on them, haven't they.

DELEGATE MARTIN: Thank you.

PRESIDENT GRAYBILL: Mr. Eskildsen, let's have a twenty-five minute recess.

DELEGATE ESKILDSEN: Mr. President, let's recess -- I move we recess until eleven A.M., this day.

PRESIDENT GRAYBILL: The motion is to recess until eleven. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: We are in recess.

(Convention recessed from 10:35 o'clock, A.M., until 11:10 o'clock, A.M.)

PRESIDENT GRAYBILL: The Convention will be in session. The Convention will be in session. Mrs. Reichert, will you please go out in the hall and tell the Delegates we are in session? The Convention will be in order. Ladies and gentlemen, Style and Drafting has completed its work but not its printing, and so it's useless to try and do anything before lunch on their proposal. We are going to recess in a moment or two until two P.M., at which time they will have

STATE PUBLISHING CO. HELENA, MONT.

their printing ready and we will have our debate on the ballot. Before we recess until two P.M., I would like to mention that we would like those who would to remain for about twenty minutes and we will listen to the three committee chairmen we didn't hear yesterday, and I would like to discuss with you very briefly candidates for -- persons that are Delegates who might be candidates for office and how that might affect us. Other than that, we can stand in recess until two P.M., if Mr. Eskildsen will make a motion, and if those of you who will be good enough to remain and let those three Delegates take over. Mr. Martin, will you come forward and take care of that meeting?

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I move the Convention stand in recess until two P.M., this day.

PRESIDENT GRAYBILL: The motion is to recess until two P.M. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention in recess at 11:14 o'clock, A.M.)

STATE PUBLISHING CO. HELENA, MONT.

MONTANA CONSTITUTIONAL CONVENTION

FIFTY-SECOND DAY

Wednesday, March 22, 1972 — Convention Hall

2:10 o'clock, P.M. — Helena, Montana

PRESIDENT GRAYBILL: The Convention will be in order. The Convention will be in order. Ladies and gentlemen, we ended up with Order of Business Number Eleven. Without objection, we will start again on Order of Business Number One. Will the Clerk please read any committee reports.

CLERK HANSON: (Reading) Mr. President: We, your Committee on Style, Drafting Transition and Submission herewith submits a revised adoption schedule to substitute for the one distributed yesterday, for consideration by the Convention. Signed, Schiltz, chairman. (End reading)

PRESIDENT GRAYBILL: And it includes, in addition to the adoption schedule, it includes a new ballot, and I think we should probably make clear for the record that it is a revised adoption schedule, it's a revised ballot, but that the transition schedule that we got yesterday still applies, and the adoption schedule and the ballot substitute for what we did -- what we had handed us yesterday. In other words, yesterday we had an adoption schedule, transition schedule, and three ballots supplied us. The three ballots are now being substituted for by the one new ballot. The adoption schedule

STATE PUBLISHING CO. HELENA, MONT.

is being substituted for by the old -- or, by the new adoption schedule. Now, the Chair will refer these substituted matters to Order of Business Number Ten. Now, without objection, we will be on Order of Business Number Ten. Is there objection?

(No response)

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: I move the Convention resolve itself into Committee of the Whole for the purpose of handling business under general orders.

PRESIDENT GRAYBILL: Very well, the motion is to resolve this Convention into Committee of the Whole for taking up these matters on Order of Business Number Ten. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention resolved into Committee of the Whole, Delegate Graybill in Chair.)

CHAIRMAN GRAYBILL: Now, Mr. Schiltz will explain this. Do you want to explain the order that you're going in to them, or would you like me to explain it?

DELEGATE SCHILTZ: I think it would be fine if you explained it, Mr. Chairman, but first, I would like to

STATE PUBLISHING CO. HELENA, MONT.

move that Rule Twenty-Three be dispensed with for the consideration of the revised adoption schedule and attached ballot, this material not having lain on the desks for forty-eight hours.

CHAIRMAN GRAYBILL: Well, then, as a matter of fact it should also include the transition schedule.

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: We did not waive Rule Twenty-Four yesterday.

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: Twenty-three? Very well, Rule Twenty-Three. Mr. Schiltz has made a motion to waive Rule Twenty-Three on the revised adoption schedule, the new revised or new ballot form, and on the transition schedule which we had laid on our desks yesterday. All in favor of waiving Rule Twenty-Three say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: So ordered. Now, I might explain that Mr. Schiltz has asked, and the Chair intends to follow this procedure. We will discuss the ballot first. If we can arrive at a ballot, then we will go back -- we are on Order of Business Ten -- we will then take article three and article five up, because until we have cleaned up article three

STATE PUBLISHING CO. HELENA, MONT.

and article five, the adoption and transition schedules do not make sense. And, then, having cleaned up article three and article five, based on the ballot work, we would then come back and take up the adoption schedule and the transition schedule. So, that's why we're skipping around here. Certain ones depend on certain other ones. Will the Clerk please read the title of the new material and the word ballot, I guess, and we'll start -- the word, official ballot -- and we'll start there. I just want you to read the title of the report, which is Style and Drafting report, and then the ballot.

CLERK HANSON: Revised -- Style and Drafting report and revised adoption schedule and official ballot. The official ballot.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration the proposed official ballot, that it recommend the same be adopted.

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: As you all know, we spent four and a half hours yesterday working on this ballot. The main purpose was to get some sense of the Committee of the Whole attitude on unicameral-bicameral and some of the other issues

STATE PUBLISHING CO. HELENA, MONT.

that are placed thereon. As a result of that, which we in our committee felt was very helpful, we have unanimity, or near unanimity -- there may have been one dissenting vote at one point or another -- on this proposed ballot, and we submit it for your consideration.

CHAIRMAN GRAYBILL: Now, members of the committee, the Chair would like to point out that when we concluded yesterday afternoon we were on Mr. Davis' motion, based on what was then called ballot number two, with an amendment proposed by Mr. Blaylock and an amendment proposed by Mr. Holland. Now, since we rose and reported and asked leave to sit again, the pending matters, namely, Mr. Holland and Mr. Blaylock's motions, on which no action had been taken, are considered by the Chair to have been wiped out. That leaves us with Mr. Davis' motion which was to have the bicameral form of the Legislative article placed in the Constitution, and have a ballot that would say that you could vote for the Constitution with the bicameral in it, et cetera, the first half of the so-called ballot. Now, the Chair wishes to point out that the official ballot which Mr. Schiltz has just moved is, for all practical purposes, Mr. Davis' motion down through number one and number two. In other words, it is a ballot including the bicameral house, two houses, in the first vote and including unicameral on the outside in the second vote. Now, Mr. Davis, you spoke with me and we can either consider your motion incorporated into

STATE PUBLISHING CO. HELENA, MONT.

the committee's report, or you could withdraw. As far as I'm concerned, I'd like to consider it incorporated into the committee's position. Is that agreeable with you?

DELEGATE DAVIS: That's agreeable, Mr. President.

CHAIRMAN GRAYBILL: All right. Does everyone understand, the work we have done yesterday has been incorporated into one and two on the ballot here, and the work -- the other motions that were made yesterday are now wiped out.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I should have explained, and you reminded me of it when you went through that. that when you get to the gambling proposition, which is number three, that it was the committee's vote that the first section nine on page thirteen -- this is contemplated by the transition and adoption schedule -- the first section nine on page thirteen would be the one that goes into the Constitution, so that if the vote went the other way, in the transition that one would come out and the second section nine would go in.

CHAIRMAN GRAYBILL: Very well.

Mr. Davis.

DELEGATE DAVIS: Could we go ahead and finish with one and two before we get into gambling, isn't that your thought, or are we going to open up three and four at this time?

CHAIRMAN GRAYBILL: Well, the whole ballot is pro-

STATE PUBLISHING CO. HELENA, MONT.

posed by Mr. Schiltz and there are explanations for three and four, if he cares to make them now, how they appear there. It seems to me their whole proposal is before us and we -- I have some amendments here which we can take, or -- let's see --

DELEGATE DAVIS: It was my thought yesterday and my motion that we would settle on one and two, the form and style and so forth before we -- and then take three and settle on it and four, maybe, and we could knock them out better than intermingling them. It's just a suggestion.

CHAIRMAN GRAYBILL: The Chair is just looking here. I have three proposed amendments to the transition article. I have no proposed amendments to the official ballot. We can -- the Chair will do whatever anybody moves here.

Mr. Ask.

DELEGATE ASK: Mr. Chairman, do you have my proposed ballot?

CHAIRMAN GRAYBILL: I have your proposed ballot. Is it to be placed as a motion?

DELEGATE ASK: Could I place that as a motion before the body at this time?

CHAIRMAN GRAYBILL: You may.

DELEGATE ASK: Mr. Chairman, could I explain it?

CHAIRMAN GRAYBILL: All right. Just a moment. Mr. Ask, has your ballot form been placed before the body on all the desks?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ASK: Mr. Chairman, we had a few made. They are on every aisle. I don't think everybody has a copy of it. There are some extra ones here, but if I could for a few minutes, I'll explain it and I think there will be no problem.

CHAIRMAN GRAYBILL: Very well, the Chair will allow as a -- just a minute, let me read it here -- is it an amendment or a substitute motion, Mr. Ask?

DELEGATE ASK: It would be a substitute motion to the ballot.

CHAIRMAN GRAYBILL: All right, the Chair will allow it as a substitute motion to the motion of the Style and Drafting Committee, Mr. Ask's proposed ballot.

Mr. Ask.

DELEGATE ASK: Mr. Chairman, fellow Delegates. I feel that -- I'm holding my ballot here now and if you'll notice, it's put into two different blocks. The top block is block one, for the proposed Constitution. Then you have for and against all the alternates, all three alternates. Down below, it's block two, against the Constitution, but they still have the right to vote for or against all the alternates. At the top I have -- of course, this could be explained differently, but -- if you are for the proposed Constitution, vote in block one below. If you are against the proposed Constitution, vote in block two below. You may

STATS PUBLISHING CO. HELENA, MONT.

vote on the three alternate propositions in whichever block you vote. Do not vote in block one and two. If you vote in both blocks, your ballot will be void. If the main proposition fails, all alternatives fail. Now, I feel that this ballot is a true balloting of this Convention of what we've done up to this time. We have adopted a proposed Constitution with three alternates. We're submitting it to the people. You can vote for it or against it, but even though you vote against it or for it, you still have the right to vote on all three alternates, either for or against. And, this is what we have done and I submit the majority report has put the bicameral in there -- of course, I'm bicameral -- but to me this isn't necessarily fair and it isn't what we have done up to this time. You put these alternates in there and then if you are against them you vote for or against them down below and to me, this is not a true or accurate ballot. Now, the only thing about this ballot is that if perchance you wouldn't get a majority voting for one of the alternates, such as the unicameral or bicameral, but the reason I put them in two blocks is, no matter where you vote, you're going to vote for the unicameral or the bicameral, so it's very, very unlikely that someone would vote in one of those blocks and not vote for either the unicameral or for the bicameral, so it's inconceivable to me that you wouldn't get a majority, and to me, this is the only way you can submit it to the people that's

STATE PUBLISHING CO. HELENA, MONT.

fair and accurate of what we've done up to this time, and that's the only thing -- in other words, if you're for the Constitution you stay in block one. You don't even fool around with block two and you get to vote on all the alternates. If you're against the Constitution you still -- you can vote against the Constitution but you still have the right to vote for or against all the alternates, and to me, this is the democratic way to do it. And, to me, the Style and Drafting Committee, I don't think, is really too clear on that point. Bicameral is in there, but then you have down below, for a unicameral or against a unicameral, and to me, I don't know, I can't really predict what's going to happen on that. The bicameralists might get clobbered and maybe they won't. I don't know. But, the ballot that I have proposed, you're clearly going to know where they stand, and I'm submitting it to the body here so they can discuss it and if they don't like it, of course, you can vote against it. Thank you.

CHAIRMAN GRAYBILL: Mr. Roeder.

DELEGATE ROEDER: Mr. Chairman, I rise in opposition to Mr. Ask's proposal. The Style and Drafting Committee has submitted a very clear, simple ballot. I defy anyone to make it clearer or simpler. Mr. Ask's ballot, by contrast, is extremely complex. It's a complicated version of Mr. Blaylock's go-for-broke ballot, which is a Russian roulette with five shells in the chamber. I might point out in addition that Mr

STATE PUBLISHING CO. HELENA, MONT.

Ask's ballot points out that if you accidentally or intentionally go from one block to another, you void your ballot. A void ballot is a vote against the Constitution because the total number of voters is determined by the number of people that pick up the ballot.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: I must rise to agree with the remarks made here by Mr. Roeder a moment ago, and what we are all grappling with here is a three-way vote, and it seems to me that Mr. Ask's proposal almost guarantees the defeat of the Constitution. Take for example two hundred thousand people going to the polls to vote for the Constitution or against it, and let's say that one hundred thousand plus one vote for the Constitution. It's almost a certainty that this one hundred thousand and one people will divide themselves up roughly fifty-fifty on the unicameral-bicameral issue and the Constitution would be defeated. I don't see how his proposal could possibly work to pass this Constitution.

CHAIRMAN GRAYBILL: Mr. Bugbee.

DELEGATE BUGBEE: Mr. Chairman, may I ask Mr. Schiltz a question?

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: Yes, you may.

DELEGATE BUGBEE: I think the ballot is excellent --

DELEGATE SCHILTZ: Thank you.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE BUGBEE: -- it seems to me, but there is just one question I have --

CHAIRMAN GRAYBILL: Mrs. Bugbee, you are referring to which ballot?

DELEGATE BUGBEE: The one we just got.

CHAIRMAN GRAYBILL: Well, we're discussing Mr. Ask's.

DELEGATE BUGBEE: I'm sorry.

CHAIRMAN GRAYBILL: You may discuss Mr. Ask's if you want to.

Mr. Ask, will you yield to a question?

DELEGATE ASK: Yes.

CHAIRMAN GRAYBILL: It is possible under your ballot that we could adopt the Constitution and not get either a bicameral or unicameral legislature, isn't it?

DELEGATE ASK: Yes, Mr. Chairman, it is conceivable but putting them both ways, I think it's unlikely that it's going to happen, but you'll -- even the for and against the alternates are counted from one to the other and they're accumulated. You just don't count block one or block two, but it's inconceivable that you're giving them the vote both ways.

CHAIRMAN GRAYBILL: Mr. Ask, if a hundred thousand people voted, fifty thousand and one for the Constitution, and forty-nine thousand nine ninety-nine against, but twenty-four thousand voted in the upper block for the bicameral and twenty-

STATE PUBLISHING CO. HELENA, MONT.

four thousand below, and twenty-three thousand for the unicameral above and twenty-three thousand below, you'd have forty-eight thousand for and forty-six thousand -- for the bicameral -- and forty-six thousand for the unicameral, it would be possible then to have a Constitution adopted with no legislature, is that right?

DELEGATE ASK: That is conceivable it could happen but I submit it's unlikely.

CHAIRMAN GRAYBILL: Then we'd be in the position of having to depend on something like Mr. Holland's amendment yesterday to get the old Constitution back in.

DELEGATE ASK: I haven't gone on from there, but this could happen all right.

CHAIRMAN GRAYBILL: Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman, fellow Delegates, as a member of the Style and Drafting Committee, I was one of two members of that committee that voted in favor of Mr. Ask's proposal, and we spent six hours -- what's today, Wednesday -- we spent six hours Monday afternoon and evening on this and all the time we spent here yesterday, and I've been thinking long and hard about this numbers game that we've been playing and I strongly suspect that on June sixth, there may be some unicameralists around the state who just might urge their people to vote for a unicameral legislature and leave that first spot blank. Now, this is a possibility that we have to

STATE PUBLISHING CO. HELENA, MONT.

consider, so I don't think that this fear that there will not be enough votes -- they did gamble to a certain extent in Illinois and a large number of people, as I said yesterday, did not vote on the question of multi-districts, rather single districts -- and yet it passed. Now, it's true that Illinois had the old constitution to fall back on, but I suspect that there's going to be a rather heavy vote on this question of bicameralism and unicameralism. In fact, at least in my own county of Yellowstone, it's been the only real issue, big issue, during the time of this Convention, and Mr. Ask's proposal is a very simple proposal. It's very easy to understand. It's true that if you vote on both boxes you void the ballot, but you can void a paper ballot -- the other ballot -- just as easily as you can void Mr. Ask's. And, I submit that the proposal of Mr. Ask's gives the people a real fair choice on the one overriding and the biggest -- not overriding, but the largest and perhaps the gravest issue that has faced this Convention, which we have decided to pass onto the voters, whether we should have a one house or a two house legislature.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Could I close on my motion, Mr. President, or does someone else wish to speak? Oh, it's your motion, Tom, excuse me.

CHAIRMAN GRAYBILL: Mr. Ask, are you ready to close?

Mr. Eskildsen.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ESKILDSEN: Mr. Chairman, Delegates, I have been on both sides of this for the last two days now and I have sat and listened patiently. I listened all afternoon yesterday and I was finally real pleased when one gentleman had the courage to rise and report progress and move along because I could see we were all tired and wasn't getting any place. But, the one thing that has finally come to me that I think is wrong with this particular ballot that is put out by the Style and Drafting is that it only has the unicameral before the people. I want both of them there so they either have a choice, unicameral or bicameral, and I think we're making a mistake if we don't. As far as being hard to understand, even I can understand Tom Ask's, so if I can understand it, I know the people in my community can understand it. I don't think it's anything that would be real difficult to explain to the people. I just got to get off the idea that we can only have one thing down there for them to vote on, unicameral for and unicameral against. If you had asked me this morning, I might have felt different, but after studying this over the noon hour and thinking about it, I just think we are making a mistake if we don't put both names on there. I support Mr. Ask's on his.

CHAIRMAN GRAYBILL: Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, after contemplating this over nine holes on the golf course just a little while

STATE PUBLISHING CO. HELENA, MONT.

ago, where the weather was beautiful, I suggest we support the majority report.

CHAIRMAN GRAYBILL: Mr. Ask, do you want to close?

Mr. Jacobsen, do you want to speak?

DELEGATE JACOBSEN: I like Tom's proposal. It does give both parties -- or both bicameral and unicameral a fair shake there. I still believe that possibly for the death penalty and for the authorized gambling, we should have separate ballots for those and possibly put these out and possibly a light red possibly for the death penalty and a blue for the authorized gambling, and a white for the other part, and have these separate ones because I know that any others who have worked in the polling places as judges will know that when we have special elections or elections for bond issues and so on, that that is a good way to get the vote and call attention to these things, especially for those people that have come to vote because of either one of these articles, and we hope that this will bring a lot of people out to vote, and I think then it wouldn't be as confusing to have all of these squares on the one ballot. Thank you.

CHAIRMAN GRAYBILL: Mrs. Erdmann.

DELEGATE ERDMANN: Mr. President, I rise in complete support of Tom Ask's proposal. I think when we campaigned, at least in our county, we assured the people they would have a clear cut decision between the unicameral and bicameral. I do

STATE PUBLISHING CO. HELENA, MONT.

not believe that this is too difficult a proposal if they use very large print in the top of the ballot which assures the people that they vote either in block one or block two. I do not believe it is too difficult and it gives a clear cut decision. Thank you, Mr. President.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I approve of the committee's report and would oppose Mr. Ask's report for the simple reason that I think it's too complicated. I would like a point of information here. Isn't it possible to change number two on this ballot, if we get back to it, for unicameral or for bicameral?

CHAIRMAN GRAYBILL: It is.

DELEGATE BATES: O.K., that's all I want to know.

CHAIRMAN GRAYBILL: Mr. Garlington.

DELEGATE GARLINGTON: Mr. Chairman, I just want to comment on one subject here. I've heard again and again, yesterday and today, the thought that we must have a clear cut decision between unicameral and bicameral. The facts of the matter are that this is utterly and totally impossible because there is a third group to be reckoned with, just like Mr. Swanberg said, and that is the group that doesn't want to have any new Constitution at all, and if nobody were going to vote except those that were choosing the new Constitution, then you would have -- we could easily frame the issue that would deal

STATE PUBLISHING CO. HELENA, MONT.

between the choice of uni- or bi-, but in the nature of things we have a third group in here and that is what creates the hazard and that's why we dare not set it up so that we are in this position of voting on uni- or bi- in our idealism and forgetting about the fact that those that are opposed to the whole project may succeed in defeating it with a very small minority of the actual number of people wanting progress in constitutional reform.

CHAIRMAN GRAYBILL: Mr. Romney.

DELEGATE ROMNEY: Mr. Chairman, I support the Ask proposal. I do it because it does give a choice and the same arguments that were made by the Delegate from Missoula apply to the majority report or plan which is before us because the same people who would vote against the Constitution for any reason, being against it and not for either bicameral or unicameral, would also vote against the majority report. There is not so much opportunity to do that in the two block system of Mr. Ask's, and so I support the Ask proposal.

CHAIRMAN GRAYBILL: Mr. James.

DELEGATE JAMES: Mr. Chairman, will Mr. Ask yield?

CHAIRMAN GRAYBILL: Mr. Ask?

DELEGATE ASK: Yes, I'll yield.

DELEGATE JAMES: Tom, there's something that bothers me. If you vote against the proposed Constitution and you vote for a unicameral legislature, you're actually amending the old

STATE PUBLISHING CO. HELENA, MONT.

Constitution then, aren't you?

DELEGATE ASK: I suppose, indirectly.

DELEGATE JAMES: Yes, but can you amend it -- is this legal to amend it this way? This is something that's bothering me.

DELEGATE ASK: Well, if the alternates pass and the main proposition fails, all alternates fail, so -- but even if they vote against, you're still giving the right to vote for the unicameral or bicameral or for or against the death penalty or for or against gambling.

DELEGATE JAMES: But, actually, you're just voting for or against the Constitution and if the for carries, then the other things apply; otherwise, the top item doesn't -- the uni- or the bi-, if you are against.

DELEGATE ASK: If the top item doesn't carry, why, the entire thing is defeated.

DELEGATE JAMES: Thank you.

CHAIRMAN GRAYBILL: Mr. Ask, you may close.

DELEGATE ASK: On Tuesdays we trust the legislature. This is Wednesday--we trust the voters. And, I think they are intelligent enough to go through this and I think my ballot gives them a clear choice of what they want to do, and it is possible but it is inconceivable to me that you wouldn't receive a majority for either a bicameral or a unicameral legislature, and even though they vote against, I still think they

STATE PUBLISHING CO. HELENA, MONT.

have the right and will want the right to vote on these three alternatives, and it is, I think, the only one that gives us a clear choice. The majority report of the Style and Drafting I can't predict how that's going to come out because the bicameral is in there and just the unicameral mentioned separately. What's the effect of this? I don't know, but I think my ballot, you have a clear choice. You either go one way or the other, and with that, I close, Mr. Chairman.

CHAIRMAN GRAYBILL: Very well, we'll have a roll call vote. So many as are in favor of the Ask proposal vote Aye, and so many as shall be opposed, vote No. Has everybody voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	-	Nay	Babcock	-	Aye
Anderson, J. H.	-	Nay	Barnard	-	Nay
Anderson, O.	-	Aye	Bates	-	Nay
Arbanas	-	Nay	Belcher	-	Aye
Arness	-	Absent	Berg	-	Nay
Aronow	-	Nay	Berthelson	-	Nay
Artz	-	Nay	Blaylock	-	Aye
Ask	-	Aye	Blend	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

1	Bowman	-	Nay	Gysler	-	Nay
2	Braxier	-	Aye	Habedank	-	Aye
3	Brown	-	Nay	Hanson, R. S.	-	Nay
4	Bugbee	-	Nay	Hanson, R.	-	Nay
5	Burkhardt	-	Nay	Harbaugh	-	Nay
6	Cain	-	Nay	Harlow	-	Aye
7	Campbell	-	Excused	Harper	-	Aye
8	Cate	-	Aye	Harrington	-	Nay
9	Champoux	-	Nay	Heliker	-	Aye
10	Choate	-	Nay	Holland	-	Absent
11	Conover	-	Aye	Jacobsen	-	Aye
12	Cross	-	Nay	James	-	Nay
13	Dahood	-	Nay	Johnson	-	Nay
14	Davis	-	Nay	Joyce	-	Nay
15	Delaney	-	Nay	Kamhoot	-	Nay
16	Driscoll	-	Nay	Kelleher	-	Aye
17	Drum	-	Absent	Leuthold	-	Nay
18	Eck	-	Nay	Loendorf	-	Nay
19	Erdmann	-	Aye	Lorello	-	Nay
20	Eskildsen	-	Aye	Mahoney	-	Nay
21	Etchart	-	Nay	Mansfield	-	Nay
22	Felt	-	Nay	Martin	-	Nay
23	Foster	-	Nay	McCarvel	-	Nay
24	Furlong	-	Nay	McDonough	-	Nay
25	Garlington	-	Nay	McKeon	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

McNeil	-	Nay	Siderius	-	Nay
Melvin	-	Nay	Simon	-	Nay
Monroe	-	Nay	Skari	-	Absent
Murray	-	Nay	Sparks	-	Nay
Noble	-	Nay	Speer	-	Nay
Nutting	-	Nay	Studer	-	Aye
Payne	-	Nay	Sullivan	-	Nay
Pemberton	-	Nay	Swanberg	-	Nay
Rebal	-	Absent	Toole	-	Nay
Reichert	-	Aye	Van Buskirk	-	Absent
Robinson	-	Aye	Vermillion	-	Nay
Roeder	-	Nay	Wagner	-	Nay
Rollins	-	Aye	Ward	-	Nay
Romney	-	Aye	Warden	-	Nay
Rygg	-	Absent	Wilson	-	Nay
Scanlin	-	Nay	Woodmansey	-	Nay
Schiltz	-	Nay	Mr. Chairman	-	Nay

CLERK HANSON: Mr. Chairman, twenty-one Delegates voting Aye, seventy voting No.

CHAIRMAN GRAYBILL: Twenty-one having voted Aye and seventy having voted No, Mr. Ask's proposal is defeated. Now, the Chair considers the issue now to be the Style and Drafting Committee's majority proposal, which, in fact, is the same as Davis through one and two.

Mr. Harbaugh.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE HARBAUGH: I'd like to take up the challenge that Mr. Roeder offered a moment ago about simplifying this. I am wondering why, in the second part on the unicameral option, that there are two choices -- for unicameral and against unicameral? It seems to me that those persons who are, who want a bicameral legislature, get two votes. They vote for the Constitution, thereby they vote for bicameral. Then, they come down to section two and they vote against unicameral, thereby, they get another vote. And, it would seem to me to simplify this ballot very much if we simply eliminated two-B and allowed the people to either cast a yes or no vote for unicameral, or vote for unicameral.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: I am in complete agreement, Mr. President, with Mr. Harbaugh's comments, and I would move at this time that line marked two-B be deleted from the proposed ballot.

CHAIRMAN GRAYBILL: Very well, Mr. Swanberg has an amendment which would eliminate line two-B, two-B, from the ballot, so it would -- so the sense of it would be that if you wanted to vote for unicameral, you could check it, but you didn't need to check against unicameral, you already having voted, presumably, up above. That's the sense of his motion.

Mr. Driscoll.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE DRISCOLL: Mr. Chairman, I propose a substitute motion for the motion now pending, that the words, against the unicameral, be stricken, and that the words, for a bicameral, two-house legislature, be inserted.

CHAIRMAN GRAYBILL: Very well, Mr. Driscoll has a substitute motion, the effect of which is to change in line two-B the against to for, and the unicameral to bicameral, so it would read: For a bicameral. In other words, in the second vote, you would have for a unicameral or for a bicameral. I might point out this has the effect of being ballot number one yesterday and in my view is the Joyce amendment of yesterday, and is another alternative way of presenting this issue. Mr. Driscoll, have I fairly stated your motion?

DELEGATE DRISCOLL: Yes.

CHAIRMAN GRAYBILL: All right, we'll discuss Mr. Driscoll's motion.

Mr. Hanson -- Rod.

DELEGATE ROD HANSON: Mr. President, this seems to be a question of two-B or not two-B --

(Laughter)

CHAIRMAN GRAYBILL: We'll let that pass, Mr. Hanson.

DELEGATE ROD HANSON: O.K., it's a point of interest then. The way this is set up, do you need a majority, or do you need fifty percent plus one vote in item two for a bicameral legislature, if we put it in, or would the vote above

STATE PUBLISHING CO. HELENA, MONT.

take precedence over the bottom vote?

CHAIRMAN GRAYBILL: The vote above -- it's the Chair's understanding, and I'll just try and answer that -- it's the Chair's understanding that the word, majority, in the box up there says that when you voted up there, assuming a majority vote for the Constitution and you have the bicameral, then it takes a majority under two to prevail, so unicameral would have to get a majority there. Now, bicameral, if it got a majority there, it would have already been in above so it wouldn't matter whether it got it or not, but if it got it, it wouldn't harm anything.

Mr. Harper, I think you were up next.

DELEGATE HARPER: Yes. I like the way this is worded and I'd just as soon take it to court after the election, because it says: The proposed Constitution includes a bicameral legislature unless replaced by a majority vote for a unicameral in issue two immediately below. Now, I submit to you that the average person when he is voting in the issue below, issue two, if he saw that one got more than the other, he would call that a majority vote. But, what we know we mean -- we're not telling the voter this -- but we know we mean that a majority of all of those who vote in this election, whether they vote in issue two or not, you could get a majority on one of those down there. Actually, of course, the bicameral doesn't have to get any votes. That's not really the issue.

STATE PUBLISHING CO. HELENA, MONT.

I'm glad to see the bicameral in it. I'm going to go for these words. The unicameral has to get fifty-one percent of the total electors voting in the election, or it has no chance. It's quite conceivable that a unicameral could get a majority in number two and still not become the law, and I think a lot of people, if not confused, would be downright mad about that, so if we keep this wording the way it is, then I hope we'll go to court and go to bat for the majority vote, and if we don't mean that, then I think we ought to rephrase the language in this box and make it perfectly plain that you have to have a majority of all the people voting in this election before two-A has a chance of carrying. You see the point.

CHAIRMAN GRAYBILL: Mr. Harper, I see the point, and if we happen to adopt Mr. Driscoll's motion, it's conceivable that the language in the box would have to be changed. Actually, the way the committee drew it up it is technically correct, that a majority still is a majority and unicameral would have to have a majority of -- a majority is defined by the Constitution in the Enabling Act before anything could happen, no matter what we told them.

DELEGATE HARPER: Mr. Chairman, let me read you again -- replaced by a majority vote in issue two immediately below. I submit to you that when people vote in issue two, they will think a majority is the one that gets the most votes. Now, I don't believe I'm that dumb. I think the average cit-

STATE PUBLISHING CO. HELENA, MONT.

izen reading that will know that. Unless he knows -- we spoke to a couple of members of the supreme court yesterday morning. We raised this issue and they did not understand that this was in there.

CHAIRMAN GRAYBILL: You're not implying that the supreme court actually discussed this with you, are you? Because that would seem to me to be --

DELEGATE HARPER: I discussed it with them.

CHAIRMAN GRAYBILL: You just tell us which ones those are. You won't use those when you take it to court because that --

DELEGATE HARPER: (Garbled. Mr. Harper was speaking at the same time as Chairman Graybill) -- all discussed --

CHAIRMAN GRAYBILL: -- would not be proper for a judge to do, Mr. Harper.

DELEGATE HARPER: We were not discussing the ballot. They said they were not aware of this complication in the Enabling Act.

CHAIRMAN GRAYBILL: Yes, well, they should not be discussing our ballot. They might be sitting on it, so I trust that nobody will put the supreme court in that terrible position again. I am very serious about that. You should not discuss constitutional issues with supreme court judges until they get there, so let's all stay away from them on this issue. You can go there afterwards, but we shouldn't prejudge them.

STATE PUBLISHING CO. HELENA, MONT.

I just point that out to the whole body. We really ought to stay away from the supreme court and let them have a fair chance to decide it, Mr. Harper.

DELEGATE HARPER: I didn't discuss a constitutional issue with them, Mr. Chairman, but I won't go into a long speech to refute your reputation of what you assume we talked about when you didn't know.

CHAIRMAN GRAYBILL: You said it, I didn't, Mr. Harper.

DELEGATE HARPER: I'm still up on this point and I think it's valid. I think the average citizen would read that and say that it means a majority vote in issue two, since that's what it says, and I'd like to see that wording changed.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Driscoll's substitute motion to put the words, for a bicameral, in the second section.

Mr. Anderson.

DELEGATE ANDERSON (OSCAR): Mr. President, a point of clarification. If someone voted for the Constitution and later on, say in section two-A or two-B, marked both of them, would that void the whole ballot or just that portion of the ballot that they voted for both, say, two-A and two-B, or if they done this on three and four?

CHAIRMAN GRAYBILL: It says in two, vote for one. It says in one, vote for one. And it says in each of them,

STATE PUBLISHING CO. HELENA, MONT.

vote for one, and if you vote for two, in my judgment, you have voided your ballot.

DELEGATE OSCAR ANDERSON: The entire ballot?

CHAIRMAN GRAYBILL: I don't know the answer to that. Maybe some other attorneys would like to judge that, but I don't know.

DELEGATE OSCAR ANDERSON: Does anyone else want to answer that question? I think that is important for us to consider.

CHAIRMAN GRAYBILL: Mr. McDonough.

DELEGATE McDONOUGH: Mr. Chairman, I don't think you would void the ballot. I had an occasion to look that up one time in an election. You only void the position you vote for if you don't properly mark the (X) in the right box, and not the whole ballot.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, I support Mr. Driscoll's amendment because I think it will give a clearer choice and perhaps attract more votes to the issue, and give us a better poll, and that's all it's going to be is a poll. I have prepared some arithmetic on this question of the chance of the unicameral prevailing as a side issue, and I conclude that there is about a ninety-five percent probability that it has no chance whatsoever. This would be true, of course, if we put the bicameral as a side issue, too. In other words,

STATE PUBLISHING CO. HELENA, MONT.

the one we put in the Constitution is almost certain to be adopted. Now, I had that printed and would have had it on your desks by now, but the steno pool made an error, so I had to go back through the process. You will get it a little later but I think that on any reasonable assumption that you make that the statement the Chair made yesterday that there would be a slight disadvantage to the one that's on the side ballot, is quite wide of the mark, and that, as a matter of fact, the one on the side ballot has no chance at all of being adopted, except in very, very unusual circumstances.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Driscoll's substitute motion that we substitute the words on line two-B, For a bicameral, two house, legislature, in place of Against a unicameral, one house, legislature. Mr. Ask, do you want to discuss it further?

DELEGATE ASK: Mr. Chairman, would Mr. Schiltz yield to a question?

CHAIRMAN GRAYBILL: Mr. Schiltz?

DELEGATE SCHILTZ: I yield.

DELEGATE ASK: Mr. Schiltz, if on the Driscoll amendment, that will be for a bicameral -- that would be two-B -- say there is more votes for the unicameral than the bicameral, yet it's not a majority equal to the ones that voted for the Constitution, what would be the result?

DELEGATE SCHILTZ: You are saying what Mr. Harper

STATE PUBLISHING CO. HELENA, MONT.

was inquiring?

DELEGATE ASK: Was that his inquiry?

DELEGATE SCHILTZ: Well, you're saying that perhaps unicameral prevailed or bicameral prevailed, or whatever, by, say, forty-six percent of the total vote cast?

DELEGATE ASK: Yes.

DELEGATE SCHILTZ: I would say that it would lose and I say it would lose because the law is what the law is, no matter whether we add that language or don't add that language up in the box.

DELEGATE ASK: I see. Thank you.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I support the Driscoll amendment and I will offer, when we get through with that, an amendment to the wording in the box to clarify it so the people will know exactly what they're doing.

CHAIRMAN GRAYBILL: Mr. Gysler.

DELEGATE GYSLER: Mr. Chairman, I speak in opposition to the Driscoll amendment and for the majority report because it just seems as though this eliminates all of the confusion and all of the things that might happen in case of these minority votes.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, I also rise in opposition to the Driscoll amendment, because it puts us right

STATE PUBLISHING CO. HELENA, MONT.

back where we were, where we have a fractured vote divided into three components, where perhaps nothing might pass. We have got to allow -- I should say we have to provide a ballot here that will allow the Constitution to pass, and if we, down in item two-B and two-A, give them a choice between unicameral and bicameral, those in favor of the Constitution -- this has been said about a hundred times now, but I'll say it again -- those in favor of the Constitution divide themselves up into two camps, neither of which will constitute a majority of those voting, and we will wind up again with a Constitution without a legislature.

CHAIRMAN GRAYBILL: Mrs. Reichert.

DELEGATE REICHERT: Mr. Chairman, I rise in support of the Driscoll amendment because I think it will be the only true picture we get of how the voters feel about unicameral or bicameral. Otherwise, we will never know by those who voted yes for the Constitution, because I am sure that most of those who favor unicameral will vote yes. They will not refrain from voting, or vote No for that reason, but we'll have no conception of the feeling about unicameral, and if some of us want to mount an initiative campaign or do something along this line, we will have no way of knowing what the true picture is unless we adopt something similar -- or, I would like to see the Driscoll amendment adopted.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE HARBAUGH: Mr. Chairman, I wonder if there isn't another problem. I wonder if the language in the box might not imply to some voters that the bicameral we are thinking of is the, in fact, the bicameral legislature of the old Constitution, and that if they thought that, they might feel that they were voting then for the legislative article as it exists in the old Constitution, and that when they came down to the second part, they might then feel that they were voting for the new proposals, and I think this would be seriously misleading the public and I would have to vote against the Driscoll amendment on that basis.

CHAIRMAN GRAYBILL: Mrs. Warden.

DELEGATE WARDEN: Mr. President, I have a question and maybe I'm stupid -- I guess maybe I am on this -- but I would like to know what would happen on two-A and two-B under the Driscoll plan if the bicameral didn't get fifty-one percent and the unicameral didn't get fifty-one percent, and the proposed Constitution in box one had enough votes. Well, that has the bicameral in it. Where would we be?

CHAIRMAN GRAYBILL: Then the bicameral would be the Constitution, Mrs. Warden. That's the purpose of putting the bicameral in the Constitution.

DELEGATE WARDEN: Yes, but if you didn't vote on it down below to get a fifty-one percent, wouldn't that count?

CHAIRMAN GRAYBILL: It wouldn't matter if it didn't

STATE PUBLISHING CO. HELENA, MONT.

get fifty-one below if it got fifty-one above.

DELEGATE WARDEN: O.K., thank you.

CHAIRMAN GRAYBILL: Very well, Mr. Driscoll, you may close. Well, Mr. Aasheim, do you want to speak?

DELEGATE AASHEIM: Yes, Mr. President. I support the Driscoll amendment. I think it's a clear ballot and there would be no question in the minds of the people when they are voting how they stand. As Mrs. Reichert said, we would then have a poll on how the populace stood on the two issues.

CHAIRMAN GRAYBILL: Mr. Driscoll, you may close.

DELEGATE DRISCOLL: Mr. Chairman, I close. Everything has been said, and we will do our business now.

CHAIRMAN GRAYBILL: Very well, we'll have a roll call vote, and the sense of what you're voting on now is whether to -- Mr. Driscoll proposes making the second vote there one between unicameral and bicameral, whereas, the committee proposal makes the second vote one between for and against the unicameral. And, assuming the bicameral is in, you are now choosing the manner in which the one that is outside will appear. It will either appear as unicameral only or it will appear as unicameral and bicameral, and under either circumstance there may be changes we need to make in the box above. Very well, so many as may be in favor of Mr. Driscoll's amendment, which puts the words, for a bicameral house in as two-B, vote Aye, and so many as are opposed vote No. Has every Del-

STATE PUBLISHING CO. HELENA, MONT.

egate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	-	Aye	Bugbee	-	Aye
Anderson, J. H.	-	Aye	Burkhardt	-	Nay
Anderson, O.	-	Aye	Cain	-	Aye
Arbanas	-	Aye	Campbell	-	Excused
Arness	-	Aye	Cate	-	Aye
Aronow	-	Aye	Champoux	-	Aye
Artz	-	Aye	Choate	-	Aye
Ask	-	Aye	Conover	-	Aye
Babcock	-	Aye	Cross	-	Aye
Barnard	-	Nay	Dahood	-	Aye
Bates	-	Aye	Davis	-	Aye
Belcher	-	Aye	Delaney	-	Aye
Berg	-	Nay	Driscoll	-	Aye
Berthelson	-	Nay	Drum	-	Absent
Blaylock	-	Aye	Eck	-	Aye
Blend	-	Nay	Erdmann	-	Aye
Bowman	-	Aye	Eskildsen	-	Aye
Brazier	-	Aye	Etchart	-	Aye
Brown	-	Aye	Felt	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Nay	McKeon	-	Aye
Gysler	-	Nap	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Absent
Hanson, R.	-	Aye	Murray	-	Absent
Harbaugh	-	Nay	Noble	-	Nay
Harlow	-	Aye	Nutting	-	Aye
Harper	-	Aye	Payne	-	Nay
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Aye
Holland	-	Absent	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Nay
Johnson	-	Nay	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Nay	Rygg	-	Aye
Kelleher	-	Aye	Scanlin	-	Aye
Leuthold	-	Aye	Schiltz	-	Nay
Loendorf	-	Nay	Siderius	-	Aye
Lorello	-	Nay	Simon	-	Nay
Mahoney	-	Nay	Skari	-	Aye
Mansfield	-	Nay	Sparks	-	Aye
Martin	-	Nay	Speer	-	Nay

STATE PUBLISHING CO. HELENA, MONT. 3

Studer	-	Aye	Wagner	-	Nay
Sullivan	-	Aye	Ward	-	Aye
Swanberg	-	Nay	Warden	-	Nay
Toole	-	Nay	Wilson	-	Nay
Van Buskirk	-	Aye	Woodmansey	-	Nay
Vermillion	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. Chairman, sixty-eight Delegates voting Aye, twenty-seven voting No.

CHAIRMAN GRAYBILL: Very well, since sixty-eight have voted Aye and twenty-seven No, Mr. Driscoll's motion passes and the second ballot now reads: Two-A, For a unicameral, one house, legislature; Two-B, For a bicameral, two house, legislature. Mr. Swanberg, this has, in my opinion, the effect of deleting your motion, which was to delete two-B but if you want to put it again, we'll test it.

DELEGATE SWANBERG: I think it will be futile, Mr. President. Nevertheless, I think the matter is important enough and I would ask for a roll call vote on my motion to delete.

CHAIRMAN GRAYBILL: Mr. Swanberg has again put the issue of whether to delete line two-B, the point being that we would now be deleting the line that says, For a bicameral, two house, legislature. He wants a roll call vote. Is there any discussion?

Mrs. Bugbee.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE BUGBEE: Mr. Chairman, could Mr. Schiltz discuss this? What would be the implications of this? It sounds like a good idea to me.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: You are talking about deleting two-B altogether?

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE SCHILTZ: Well, I have no brief for it, one way or the other. I think that the people ought to be given a choice and that's what the committee decided, and so I think we unanimously on that proposition decided that we would give the people a choice in that connection. As to effect, I have no idea what the effect would be. I think the people could adopt the unicameral by voting for it there and overcome the bicameral that's in the first proposition by so doing, but I think they could also do it with two boxes, or two choices.

CHAIRMAN GRAYBILL: Very well, the -- Mrs. Bates, do you want to discuss this motion to delete line two-B?

DELEGATE BATES: Yes. Mr. Chairman, if you did this and you left your first statement up above, that vote on all four issues, there really isn't a choice then. Either you would have to put for a unicameral, yes or no, or leave it as it is, or change that again, because you have to provide the voters with a choice.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: I think you're right. We might have to say, you may vote on all four, but you couldn't say they should. Very well, Mr. Swanberg, do you want to close?

DELEGATE SWANBERG: Just a few brief comments, Mr. Chairman. We want to make this ballot as simple as possible and as easy to understand as possible, and we want to prepare a ballot whereby the Constitution can pass. It's pointless to stay here for sixty days working on a proposed Constitution and then submit a ballot that is so complicated that it cannot possibly pass the voter, or one which, by the laws of probability and the rules of arithmetic could not possibly pass the voters. Now, I submit for your consideration that the voter when he goes to the polls has three choices. He can vote for the Constitution or he can vote against the Constitution, and then he has one third choice whereby he puts in a unicameral alternate if he wants it. Those are the three choices he has and those should be all that he has. To put a fourth one in simply muddies the water. Poll-taking is, I suppose, a nice thing to do but when we are trying to get a Constitution passed, let's forget about taking polls. Let's concentrate on trying to pass the Constitution. I would further submit for your consideration that those who favor the unicameral article would themselves be taking a poll by voting on that issue, so all we need here is three items -- for the Constitution, against the Constitution, and for the unicameral

STATE PUBLISHING CO. HELENA, MONT.

alternate, and that's all we should submit to the people.

CHAIRMAN GRAYBILL: Mr. Wilson, for what purpose do you rise? Do you want to discuss it?

DELEGATE WILSON: Yes.

CHAIRMAN GRAYBILL: Very well.

DELEGATE WILSON: I hesitate to get up here, but I think that by the act of our last vote, we have caused a legal question on our ballot.

CHAIRMAN GRAYBILL: Well, we are not quite through with it yet, Mr. Wilson. Very well, I guess we're ready to vote. It will be a roll call vote. All those in favor of Mr. Swanberg's proposal to strike two-B entirely, vote Aye, and all those opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	- Nay	Ask	- Nay
Anderson, J. H.	- Nay	Babcock	- Nay
Anderson, O.	- Nay	Barnard	- Nay
Arbanas	- Nay	Bates	- Nay
Arness	- Nay	Belcher	- Nay
Aronow	- Nay	Berg	- Aye
Artz	- Nay	Berthelson	- Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Blaylock	-	Nay	Furlong	-	Nay
2	Blend	-	Aye	Garlington	-	Nay
3	Bowman	-	Aye	Gysler	-	Aye
4	Brazier	-	Nay	Habedank	-	Nay
5	Brown	-	Aye	Hanson, R. S.	-	Nay
6	Bugbee	-	Aye	Hanson, R.	-	Nay
7	Burkhardt	-	Nay	Harbaugh	-	Aye
8	Cain	-	Nay	Harlow	-	Nay
9	Campbell	-	Excused	Harper	-	Nay
10	Cate	-	Nay	Harrington	-	Nay
11	Champoux	-	Aye	Heliker	-	Nay
12	Choate	-	Aye	Holland	-	Absent
13	Conover	-	Nay	Jacobsen	-	Nay
14	Cross	-	Nay	James	-	Nay
15	Dahood	-	Absent	Johnson	-	Nay
16	Davis	-	Aye	Joyce	-	Nay
17	Delaney	-	Nay	Kamhoot	-	Nay
18	Driscoll	-	Nay	Kelleher	-	Nay
19	Drum	-	Absent	Leuthold	-	Nay
20	Eck	-	Nay	Loendorf	-	Nay
21	Erdmann	-	Nay	Lorello	-	Nay
22	Eskildsen	-	Nay	Mahoney	-	Aye
23	Etchart	-	Nay	Mansfield	-	Aye
24	Felt	-	Nay	Martin	-	Aye
25	Foster	-	Nay	McCarvel	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

McDonough	-	Nay	Schiltz	-	Nay
McKeon	-	Absent	Siderius	-	Nay
McNeil	-	Nay	Simon	-	Nay
Melvin	-	Nay	Skari	-	Nay
Monroe	-	Absent	Sparks	-	Nay
Murray	-	Absent	Speer	-	Nay
Noble	-	Nay	Studer	-	Aye
Nutting	-	Aye	Sullivan	-	Nay
Payne	-	Nay	Swanberg	-	Aye
Pemberton	-	Absent	Toole	-	Aye
Rebal	-	Nay	Van Buskirk	-	Aye
Reichert	-	Nay	Vermillion	-	Nay
Robinson	-	Aye	Wagner	-	Nay
Roeder	-	Nay	Ward	-	Nay
Rollins	-	Aye	Warden	-	Nay
Romney	-	Nay	Wilson	-	Nay
Rygg	-	Nay	Woodmansey	-	Nay
Scanlin	-	Nay	Mr. President	-	Nay

CHAIRMAN GRAYBILL: Mr. Habedank is on the aisle where you are. Will you take that to him quickly?

CLERK HANSON: Mr. Chairman, twenty-one Delegates voting Aye, seventy-one voting No.

CHAIRMAN GRAYBILL: Twenty-one having voted Aye and seventy-one having voted No, Mr. Swanberg's motion is defeated. Now, Mr. Mahoney, Mr. Habedank has a motion before

STATE PUBLISHING CO. HELENA, MONT.

the Chair, but I'm asking him about a word and I think I want him to be next. Now, if you want to --

DELEGATE MAHONEY: (Inaudible. Microphone not turned on.) -- point of information.

CHAIRMAN GRAYBILL: All right, that would be a fine thing to take the time.

DELEGATE MAHONEY: Could we have the chairman of the Style and Drafting Committee tell me just where we are in section two now, in relation to the majority?

DELEGATE SCHILTZ: I assume, Mr. Mahoney, that you're asking about whether the law that I explained and went through yesterday still obtains? Certainly, it does. We still need down in section two to get fifty percent of the vote, plus one, to overturn a bicameral legislature. Is that your question?

CHAIRMAN GRAYBILL: Mr. Mahoney.

DELEGATE MAHONEY: Well, this -- we go back to the board -- say that the Constitution passes, then we go down here in the unicameral and we get forty percent unicameral and we get thirty-five percent bicameral. Where are we at?

DELEGATE SCHILTZ: Then we still have the Constitution with the bicameral in it on the vote for the Constitution up above.

CHAIRMAN GRAYBILL: And, Mr. Mahoney, the point of Mr. Habedank's motion is to clean up the language in the box

STATE PUBLISHING CO. HELENA, MONT.

a little there because we've changed the word down below. Mr. Habedank, do you wish to make your amendment?

DELEGATE HABEDANK: Yes, Mr. President.

CHAIRMAN GRAYBILL: All right. Have you got a copy of it?

DELEGATE HABEDANK: I have it. Would you read it?

CHAIRMAN GRAYBILL: All right, Mr. Habedank proposes an amendment which says: I move to amend the words in the box to read as follows: The proposed Constitution includes a bicameral, two house, legislature unless replaced by a majority vote -- then he would add this language -- of those voting at this election voting for a unicameral, one house, legislature in issue two immediately below. Is that right? Do you want that second voting in?

DELEGATE HABEDANK: Strike the voting. I agree with you.

CHAIRMAN GRAYBILL: Strike the voting. All right, then it would say a majority vote of those voting at this election for a unicameral, one house, legislature on issue two immediately below. In other words, he has added the words of those voting at this election, so that it says, a majority vote of those voting at this election, comma, for a unicameral legislature on issue number two below, and it has the effect, Mr. Mahoney, of clearing up Mr. Harper's point that the word, majority vote, is then defined as a certain majority vote,

STATE PUBLISHING CO. HELENA, MONT.

namely, a majority vote of those voting at this election. Is that right, Mr. Habedank?

DELEGATE HABEDANK: That is my intent, Mr. President. I feel that with this we are telling the people exactly what is going to happen. There is no question about it, even though the law may be otherwise, and I don't think that words are that -- or a shortage of words is that important.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, on the contrary, I submit that Mr. Habedank has compounded the felony and made it possible to read that if -- what Mr. Mahoney was just asking -- if down below there is a thirty-five and a thirty-eight percent vote, one of those is going to carry. Now, if you read that carefully, that's what happens. It reads just like this: The proposed Constitution includes a bicameral, two house, legislature unless replaced by a majority vote of those voting at this election for a unicameral.

CHAIRMAN GRAYBILL: No, he's got at this election, comma.

DELEGATE SCHILTZ: Well, I submit that that comma is not all that effective. I think it's more misleading than it was.

CHAIRMAN GRAYBILL: Well, all right, but he does have it there. May the Chair inquire of Mr. Schiltz? Would you prefer if it says a majority vote of the total cast on

STATE PUBLISHING CO. HELENA, MONT.

ballot number one?

DELEGATE SCHILTZ: Well, I heard Mr. Murray say yesterday that ballot number one is what the secretary of state is going to adopt, and I don't trust the secretary of state all that much. I have the feeling that if down there on item number four we got two hundred and ten thousand votes and on item number one we got two hundred thousand votes, that he, by golly, ought to say that the total number of votes cast at this election was two hundred and ten thousand votes. What Frank Murray says has never impressed me all that much and it impresses me less on this subject. My point, Mr. Chairman, so far as the box is concerned, and I said it just a minute ago, and I think that any lawyer in the place would probably -- or most of them, at least -- would probably agree with me, that we don't need to delineate the law. The law is what the law is, and if it turns out that an odd voter misunderstands that and turns out to be disappointed, that's too bad because the law is what the law is, and I don't think we need to play with that language at all.

CHAIRMAN GRAYBILL: Mrs. Eck, I think you were up before.

DELEGATE ECK: Mr. Chairman, would Mr. Schiltz yield for a question?

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I yield.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ECK: Mr. Schiltz, would it clarify it at all -- you know, thinking that some of us would like it clarified -- if we say, unless a majority of all those voting on this ballot, or in this election, vote for a unicameral legislature in issue two immediately below?

DELEGATE SCHILTZ: That would be infinitely better than what Mr. Habedank proposed. It would probably only clarify it if we printed the entire debate that took place yesterday on the question of fifty percent plus one. I don't think we need to do any of that.

DELEGATE ECK: Mr. Chairman, I would like to submit this as a substitute amendment. Would you like to get me to take it up in writing?

CHAIRMAN GRAYBILL: Well, just a minute. If you'll read it to me slowly.

DELEGATE ECK: O.K.

CHAIRMAN GRAYBILL: Unless -- after unless.

DELEGATE ECK: Unless a majority of all those voting in this election -- or on this ballot -- whichever you think would be better -- on this ballot vote for a unicameral, et cetera.

CHAIRMAN GRAYBILL: Mr. Habedank, have you heard that language?

DELEGATE HABEDANK: Unless a majority of those voting on this ballot vote what?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: For a unicameral legislature in issue number two immediately below.

DELEGATE HABEDANK: Mr. Chairman, I don't think that takes away the effect of what I am trying to do, and as far as Mr. Schiltz's position is concerned, I can agree with him. What we say probably won't affect the law, and that applies to what we say here, as well as what he says, and I think what we are trying to say is a lot more coherent than what he is trying to say.

CHAIRMAN GRAYBILL: How about what Mrs. Eck is trying to say?

(Laughter)

DELEGATE HABEDANK: I like what Mrs. Eck is trying to say.

DELEGATE ECK: Mr. Chairman, Mr. Brown just made another suggestion here which might clarify it a little better. He said it might be better to have, also vote for a unicameral. In other words, at the end of the amendment add an also.

CHAIRMAN GRAYBILL: Unless a majority of all those voting on this ballot also vote for a unicameral, one house, legislature in issue number two immediately below.

DELEGATE ECK: That's right. Thank you.

CHAIRMAN GRAYBILL: Now, just a minute so I keep straight up here. I'll allow Mrs. Eck's substitute amendment and then we can defeat it or pass it. All right, now, the

STATE PUBLISHING CO. HELENA, MONT.

Chair will reset the stage and then we'll discuss it. The box you have before you -- now, Mr. Habedank moved that after the word majority vote, we add a majority vote of those voting at this election for a unicameral one house legislature. Mrs. Eck has now made a substitute motion that we start up a little higher at the word, unless, and it would say: The proposed Constitution includes a bicameral, two house, legislature unless a majority of all those voting on this ballot also vote for a unicameral, one house, legislature in issue number two below. That's the issue. Now, who would like to discuss it?

Mr. Harbaugh.

DELEGATE HARBAUGH: Mr. Chairman, I would like to direct a question to Mr. Habedank.

DELEGATE HABEDANK: I yield.

DELEGATE HARBAUGH: Mr. Habedank, was the intent -- would the intent of what you meant in your original motion be clarified if we said, of those voting for or against the Constitution?

DELEGATE HABEDANK: No, I don't feel it would. I think voting on this ballot, as Mrs. Eck has it, would cover the situation -- or voting on this proposition or any one of a number of words can be used.

DELEGATE HARBAUGH: Mr. Chairman, it seems to me that we are still somewhat confused by voting on this ballot, that phrase, whether that applies to all subsections or whether

STATE PUBLISHING CO. HELENA, MONT.

it applies just to the first section of this ballot, and if the intention is to count as -- for the purpose of determining majority -- just those who vote for or against the Constitution, then I think that's what we ought to say.

CHAIRMAN GRAYBILL: Well, that might be, Mr. Harbaugh. The Chair would just observe that Mr. Schiltz's point is still well taken. It doesn't matter what we say. Unless they get an absolute majority, nobody can allow unicameral in, so it really doesn't matter as long as you're not -- it doesn't matter how you count it. It doesn't matter if you count one, two, three, four, until an absolute majority of what the court will hold eventually is the number one issue, it doesn't matter, but if you want to make another one after we have amended or voted on these two, we can have another go at it.

Mrs. Eck.

DELEGATE ECK: Mr. Chairman, I really think that Mr. Schiltz is right here, that probably the more words we add the more confusing it's going to be. We are not following our exact words down below and I would like to withdraw my amendment.

CHAIRMAN GRAYBILL: Mrs. Eck's is withdrawn. All right, Mr. Habedank's is not yet, so we are voting on whether or not to add after the words, a majority vote -- the phrase, a majority vote of those voting at this election for a unicameral, one house, election -- one house legislature.

STATE PUBLISHING CO. HELENA, MONT.

Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I think the further we go with this the more confused we do become. I wonder if it is necessary to put this information on the ballot at all that's contained in this box, and as a substitute motion, I would move that we delete it. It's certainly going to confuse the voters.

CHAIRMAN GRAYBILL: Now, Mr. Choate, I'm going to let you put that motion if you want to, but seven lawyers on Style and Drafting and the President and several other lawyers I've talked to all agree that you must have some language like this, otherwise Mr. Aasheim's point yesterday that everybody that votes in the first box must be counted for bicameral and it makes it impossible for unicameral to ever win if the Constitution wins. Do you follow me?

DELEGATE CHOATE: Well, I don't understand why that is so. Perhaps it is. For what reason would it be necessary?

CHAIRMAN GRAYBILL: Because the Constitution would necessarily include bicameral and when you vote it up there, if you don't have this caveat in there, then the court is going to hold that a vote up at the top is a vote for bicameral.

DELEGATE CHOATE: Well, I think it would anyway. Of course, it would anyway if it's in the document, but if we

STATE PUBLISHING CO. HELENA, MONT.

tell -- why do we need to say that bicameral is contained in it? The fact that it is in the document, it appears to me that to state it again here is not necessary and would only add to the confusion of it. That's the point I make. We have a clear cut choice for unicameral or bicameral down here in item two and it looks to me as though this is superfluous to -- and confusing. That's the point of it. I think it will just add to the confusion.

CHAIRMAN GRAYBILL: Now, are you making your motion as a substitute motion? I've got one substitute motion so I don't see how you can make another substitute motion. Oh, no, Mrs. Eck withdrew.

DELEGATE CHOATE: She withdrew, and hers was a substitute amendment to Mr. Habedank's motion.

CHAIRMAN GRAYBILL: All right, so you want to make a substitute motion anyway?

DELEGATE CHOATE: Well, yes, I do want to, Mr. Chairman, unless it is going to pose a legal problem and if the --

CHAIRMAN GRAYBILL: Well, in the Chair's view, it's going to make the ballot illegal. Now, the Chair can come down on the floor and explain that if necessary or maybe some of the other lawyers can, but --

DELEGATE CHOATE: No, that's all right. I'll take the Chair's word for it. If it is going to pose a legal prob-

STATE PUBLISHING CO. HELENA, MONT.

lem, I'll withdraw the motion.

CHAIRMAN GRAYBILL: It's going to cause the court to hold that the first votes up there must necessarily be counted for bicameral, and then any votes in two are going to be added to that, and it's going to be impossible for unicameral ever to get more than fifty-one percent, fifty-one percent having been necessary at the first line, to ever get the thing adopted anyway. So, you have effectively stopped any possibility of unicameral winning if you do that. Now, do you not want to make your motion?

DELEGATE CHOATE: I'll withdraw the motion.

CHAIRMAN GRAYBILL: All right, the issue is on Mr. Habedank's motion to add the words, of those voting at this election, into the box.

Mr. Aasheim.

DELEGATE AASHEIM: I have another proposal here that I would like to make as a substitute motion to Mr. Habedank's and I think maybe it will clarify it. It would read like this: The proposed Constitution includes a bicameral, two house, legislature which becomes law unless the majority of those voting at this election vote for a unicameral legislature in issue number two immediately below.

CHAIRMAN GRAYBILL: Which becomes law unless --

DELEGATE AASHEIM: Which becomes law unless the majority of those voting at this election vote for a unicameral

STATE PUBLISHING CO. HELENA, MONT.

legislature in issue two immediately below.

CHAIRMAN GRAYBILL: Unless a majority of those voting at this election vote for -- I can't write faster --

DELEGATE AASHEIM: Vote for a unicameral legislature in issue two immediately below. Mr. Chairman, Mr. Schiltz -- would Mr. Schiltz yield to a question?

CHAIRMAN GRAYBILL: Nobody's got the floor yet. Just a minute. I have to get it down or else I lose it and it never gets taken care of. All right, Mr. Aasheim has a substitute motion which would say: The proposed Constitution includes a bicameral, two houses, legislature -- he takes that much and then he adds -- which becomes law unless the majority of those voting at this election vote for a unicameral, two house, legislature in issue two below -- immediately below, if you want to put it in there. I don't know. Now.

Mr. Aasheim.

DELEGATE AASHEIM: Will Mr. Schiltz yield for a question?

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Yes.

DELEGATE AASHEIM: How does that sound for size?

DELEGATE SCHILTZ: Well, my first impression was that it was all right but it assumes that it is going to be law if number one is adopted and, of course, number one might not be adopted. Now, the same might be said -- it might be

STATE PUBLISHING CO. HELENA, MONT.

relieved by the word, proposed Constitution includes a bicameral. As we have it, I don't think we have the disability that you put in there by saying which becomes law, because it won't become law unless number one is adopted.

DELEGATE AASHEIM: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I will leave it for the assembly to decide.

CHAIRMAN GRAYBILL: You'll what?

DELEGATE AASHEIM: I'll leave it to the assembly. I won't withdraw at this time.

CHAIRMAN GRAYBILL: You won't withdraw it?

DELEGATE AASHEIM: No.

CHAIRMAN GRAYBILL: O.K. It's not withdrawn, it's up for discussion.

Mr. Roeder.

DELEGATE ROEDER: Will Mr. Habedank yield to a question?

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Yes, I will.

DELEGATE ROEDER: Now, your proposal was that after the words, majority vote, to include of those voting in this election.

DELEGATE HABEDANK: Yes, to correspond with our present Constitution.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE ROEDER: I'm not sure I understood Mr. Schiltz's demurrer when he said the law is the law, but I think I see one problem that the addition of your words might bring about. Now, it is possible, I think, Mr. Habedank, that the provision that we are trying to surmount, that is in section eight of article nineteen of the present Constitution, does not really necessarily go into effect for two, three and four. Now, I was not one of the lawyers in the Style Committee that the Chair refers to, but I have a notion that you could interpret section eight, article nineteen, in such a way that it would not apply, so that if you had a simple majority on two, three and four that was not an absolute majority of the total vote in number one, that they would still be valid. If my interpretation is right, would not the inclusion of your language change that and remove that possibility?

DELEGATE HABEDANK: Are you asking me a question?

DELEGATE ROEDER: Yes.

DELEGATE HABEDANK: Yes, Mr. Roeder, I feel sure it would, and originally when I approached this proposition, I approached it from the standpoint that if the Constitution started out -- or if the vote started out for the proposed Constitution, including the alternate proposals receiving the majority votes cast for each alternate below, that would meet the test of objections in the supreme court, but I really don't feel it's fair to run that risk here, much as I would

STATE PUBLISHING CO. HELENA, MONT.

like to have it that way. I think it's better to clarify it the way I have clarified it and eliminate that possibility. It says straight out what it is and if the body doesn't want to go for it, then I think it's something else, but as I look at it, as the Style and Drafting Committee has proposed this ballot, your construction is possible and we can have the law suit that George Harper said we could have, and I think we should clarify it at this stage.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman and fellow Delegates, I would rise as a member of the Style and Drafting Committee and salute the legal work of the seven minds that have been wrestling with this, and our Chairman, and Gardiner Cromwell, and two other legal assistants in the group. They have come up with terse, lean language which does not spell out everything but which does make the issue crystal clear for the voter. If he's going to make it on the unicameral, he's got to have a majority of voters coming in on two-A, and the main purpose for its being there is for his information as he moves through the ballot, and there is no question. The legal suit may be filed but it will lose. There is no question, I have been convinced by these many good legal minds. It's clear as Style and Drafting has presented it.

CHAIRMAN GRAYBILL: Mr. Berg.

DELEGATE BERG: Mr. Chairman, I thought I might

STATE PUBLISHING CO. HELENA, MONT.

indicate for the consideration of the body the problem that was confronting Style. The suggestion that Mr. Roeder made is that the language, approved by a majority of electors voting at this election, may only apply to an amendment of the 1889 Constitution and may not be necessarily applicable to the proposed Constitution. This has been the problem that Style lawyers have wrestled with during the last week, and we all, I think, are in agreement that we ought not to risk that possible interpretation. In other words, we felt there was sufficient doubt as to whether it did or did not apply to the new Constitution, that we ought to adopt it so that there was no question. I believe that accepting Mr. Habedank's amendment does, in a measure, also clarify and sustain this position that these amendments or these alterations as to unicameral or bicameral, particularly as to unicameral, ought to be carried only if a majority of those voting at the election approve it. Therefore, I prefer Mr. Habedank's language because it is consistent with section eight of article nineteen and does resolve any possible conflict that the Style lawyers were confronted with. Thank you.

CHAIRMAN GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: Mr. Chairman, I am going to withdraw my amendment in favor of the wording in the box as proposed by the Style and Drafting Committee.

CHAIRMAN GRAYBILL: All right, Mr. Aasheim's is

STATE PUBLISHING CO. HELENA, MONT.

withdrawn. Now, I wish you would all listen. The Chair has a proposed amendment from Mr. Brown. I wish Mr. Schiltz and all of you experts would listen and see if it's any better. The proposed Constitution will include a bicameral, two house, legislature unless a majority of those voting in this election choose a unicameral, one house, legislature in issue two immediately below. Now, it's very similar to the Committee's except it says the proposed constitution will include a bicameral unless a majority of those voting, which is Mr. Aasheim's language, in this election -- unless a majority of those voting in this election choose a unicameral, one house, legislature in issue two immediately below. It seems to change it from a slightly legalistic to a more personable statement, but I don't know whether it's any better. What do you think, Mr. Schiltz?

DELEGATE SCHILTZ: That's satisfactory with me. It gets away from that trouble I had with Mr. Habedank's, as though you were saying if you vote for one of these things below and get a majority that it carries.

CHAIRMAN GRAYBILL: What do you think, Mr. Habedank?

DELEGATE HABEDANK: I like it.

CHAIRMAN GRAYBILL: What do you think, Mr. Berg?

DELEGATE BERG: I would prefer that it use the language, replaced by, instead of choose.

CHAIRMAN GRAYBILL: Unless a majority of those vot-

STATE PUBLISHING CO. HELENA, MONT.

ing in this election replaced by -- it can't. It's got to say choose. It's the people who choose.

DELEGATE BERG: Is replaced by.

CHAIRMAN GRAYBILL: Oh -- bicameral unless a majority of those voting in this election choose a unicameral legislature -- I don't see where you can put in replaced by.

DELEGATE BURKHARDT: Do you mean vote for, rather than choose -- to vote for, rather than choose?

CHAIRMAN GRAYBILL: I'll read mine and then you can read it back: The proposed Constitution -- or, I'll read Brown's: The proposed committee -- or, the proposed Constitution will include a bicameral, two house, legislature unless a majority of those voting in the election choose a unicameral, one house, legislature in issue two immediately below. Now, we could say, unless a majority of those voting in the election vote for a unicameral, but choose probably has the advantage of being one letter shorter.

Mr. Berg.

DELEGATE BERG: I yield.

CHAIRMAN GRAYBILL: Mr. Brown, you'd better get this in. Do you want to make a motion?

DELEGATE BROWN: Yes, I'll move, Mr. President, but I think maybe instead of choose, vote for would be better because we do say For in issue two.

CHAIRMAN GRAYBILL: All right.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE BROWN: So, with that amendment, I will move that as -- I don't know what I'm moving -- a substitute motion? Or a motion, or amendment?

CHAIRMAN GRAYBILL: Well, just a minute. I'll find out. Mr. Habedank, are you going to withdraw or are you going to stay in?

DELEGATE HABEDANK: No, I'll withdraw mine in favor of Mr. Brown's, with that change.

CHAIRMAN GRAYBILL: Mr. Habedank's is withdrawn. You're just making a motion, Mr. Brown. You are making a motion that the language in the box be as follows, right? The proposed Constitution will include a bicameral, two house, legislature unless a majority of those voting in this election vote for a unicameral, one house, legislature in issue two immediately below.

DELEGATE BROWN: I will so move.

CHAIRMAN GRAYBILL: All right, is there discussion of Mr. Brown's language?

Mr. Martin.

DELEGATE MARTIN: Mr. Chairman, I support the amendment. We are right back to what we adopted yesterday in Mr. Davis' motion.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, all these lawyers and political scientists have got me thoroughly confused.

STATE PUBLISHING CO. HELENA, MONT.

Would Mr. Schiltz yield to a question?

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Yes, I yield.

DELEGATE HELIKER: Just exactly what is the issue? What is it you're trying -- what is the problem you're trying to solve here?

DELEGATE SCHILTZ: With the box?

DELEGATE HELIKER: With this amendment of Mr. Brown's?

DELEGATE SCHILTZ: Well, I think you should ask Mr. Brown to yield.

DELEGATE HELIKER: You all seem to be agreeing on it.

DELEGATE SCHILTZ: Well, I asked if you meant the box. I'll start with the box. The purpose of the box is to warn people that there is an opportunity to replace the bicameral legislature by voting in number two, below. Now, so far as I'm concerned, this language was all right. I sense that somebody has some disturbance about whether or not we have to put a further warning in there that they must carry the thing below by fifty percent of the vote plus one vote, so I don't have any trouble with this language if they want to do it. It's much better than what we had up until now, so that's why I waved my hand and said it was all right.

DELEGATE HELIKER: Mr. Chairman.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Would Mr. Brown yield?

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: Yes, I'll yield.

DELEGATE HELIKER: Would you answer my question which Mr. Schiltz didn't answer?

DELEGATE BROWN: Well, I don't know if I can. It seemed to be the sense of the people here that if you had fifty plus one vote for the Constitution, but below there you had forty-eight percent for unicameral and thirty-two percent for bicameral, then the unicameral would not carry, but the people of Montana would be thoroughly confused and say, we voted for unicameral, why didn't we get it? So, we want to put right on the ballot -- we can show them the ballot and say, here, it says a majority of those voting, so the people won't misunderstand. In other words, I'm afraid that if you just say a majority votes for unicameral, they will think they have carried unicameral when in fact they haven't.

DELEGATE HELIKER: Mr. Chairman.

CHAIRMAN GRAYBILL: Yes.

DELEGATE HELIKER: Now, there was something else involved in this discussion somewhere along the line to the effect that, if I understood it correctly, that if we did not include Mr. Brown's or Mr. Habedank's language, then that there might be an interpretation that the vote on part two of the

STATE PUBLISHING CO. HELENA, MONT.

ballot was an amendment to the new Constitution and thus not subject to the requirement of the old Constitution in article nineteen. Now, may I ask the Chair to give us his explanation?

CHAIRMAN GRAYBILL: Well, the issue you raise was partly discussed by me and partly discussed by Mrs. Eck or Mrs. Bugbee or someone -- Mr. Berg -- but the point is that if you put nothing, if you put no box there -- you see, we have now put the bicameral article in the Constitution. You are with us there? That's what we did yesterday.

DELEGATE HELIKER: Right.

CHAIRMAN GRAYBILL: All right, now, having put it in there, if you put no box at all there, I think you force any court to say that when people vote for that Constitution, all those votes must really be counted for bicameral. And then if unicameral -- you know, we can't even pass the Constitution unless we've got fifty-one percent, so automatically bicameral wins because it had to have fifty-one percent or we have no Constitution anyway, and the vote on two becomes meaningless. In order to make the vote on two meaningful, you have to warn the public that it's possible to replace the one you put in with the one you are going to vote on below, so that's the purpose of the box. Now, --

DELEGATE HELIKER: Doesn't the box, as originally written, do that?

CHAIRMAN GRAYBILL: The box as originally written

STATE PUBLISHING CO. HELENA, MONT.

does that except -- it does that in Mr. Schiltz's and my view because it doesn't make any difference what we say, as long as we warn them the court is not going to let unicameral replace bicameral unless it has an absolute majority because of the Constitution and the Enabling Act.

DELEGATE HELIKER: Well, if we're all agreed on that, then I --

CHAIRMAN GRAYBILL: But, wait a minute -- wait a minute -- I get to answer. But, the question was raised by Mr. Harper, and I think legitimately, that when you say unless replaced by a majority vote, without describing the majority vote, you could have a different majority vote on two than you had on one, and as Mr. Brown just answered to you, we would be in a funny position with the public if a majority -- that is, more than those voting on only number two -- supported unicameral, but less than a majority of all the people voting on the ballot did because people would think that since unicameral got a few more than bicameral, they'd think that unicameral won but in fact it hadn't won because of the rules, so you have to state that rule. Now, Mr. Brown has stated the rule, in the opinion of most of us here now, somewhat more skillfully than we originally stated it by saying that the proposed Constitution will include this bicameral legislature -- so now they're all aware of that -- unless a majority of those voting in the election -- that's of all the people voting

STATE PUBLISHING CO. HELENA, MONT.

and not just on number two -- a majority of those voting in the election vote for a unicameral legislature in issue two below. He has clearly pointed out that you've got to have a majority on number two of all of those in the election, not just on issue number two, and in that sense his language is somewhat better than the original language in the box, in the opinion of those who have spoken so far.

DELEGATE HELIKER: Mr. Chairman.

CHAIRMAN GRAYBILL: Yes, sir.

DELEGATE HELIKER: The problem is one of informing the people, not of clearing up a legal question, is that right?

CHAIRMAN GRAYBILL: I think that's right, but it never hurts to inform -- to do them both at the same time.

DELEGATE HELIKER: Well, we were told first that the law would be the law, regardless of whether --

CHAIRMAN GRAYBILL: What you are told is that if unicameral gets fifty percent, less one, there is no way that any court or anybody else can put it into effect, so it doesn't matter how many votes it got, if it got all the votes in number two and nobody voted for bicameral, it wouldn't do unicameral any good unless it got fifty percent, plus one.

DELEGATE HELIKER: Yes, and there is no question about that, regardless of what the wording is in the box?

CHAIRMAN GRAYBILL: Well, there's no question abou

STATE PUBLISHING CO. HELENA, MONT.

that in the minds of the lawyers because of the wording of the Enabling Act, but there is in Mr. Roeder's mind, and he may be entirely right but the Enabling Act, which I read to you yesterday, does say, must receive a majority -- the proposals -- in the plural -- must receive a majority of those voting at the election. Now, whatever that means. If that means all, it means all of it. If it means only the first, it means only the first, but since proposals is plural in the Enabling Act and since the Constitution, which I also read to you yesterday, says a majority of those voting for the amendment, change, ratification -- there's about four words there and they're all modified by majority. Does that help you, Mr. Heliker?

DELEGATE HELIKER: Well, I'd like to ask Mr. Berg a question if I may.

CHAIRMAN GRAYBILL: O.K., Mr. Berg, you're up.

DELEGATE HELIKER: I want to get several legal opinions on this. I think it's a good policy in this Convention. Mr. Berg, --

DELEGATE BERG: I yield.

DELEGATE HELIKER: Do I now understand correctly that there is no legal question to be cleared up here, that the law will be the same regardless of how you word this, whether you adopt Mr. Brown's amendment or not?

DELEGATE BERG: That would be my opinion, yes.

DELEGATE HELIKER: So, all we're doing is to inform

STATE PUBLISHING CO. HELENA, MONT.

the people.

DELEGATE BERG: We are informing the people by the ballot that it requires a majority of those voting at the election to carry unicameral.

DELEGATE HELIKER: Mr. Roeder's remarks, in your opinion, have no validity?

DELEGATE BERG: In my opinion, yes, I would agree with that.

DELEGATE HELIKER: All right. I'm more or less satisfied.

CHAIRMAN GRAYBILL: All right, the issue is on Mr. Brown's amendatory language for the box and we'll vote on that after discussion, if anyone wants to discuss Mr. Brown's language further.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I would like to make a suggestion here because I think we are discussing the unicameral and bicameral only in this box, whereas, we also have two other alternate issues. I would like to suggest something to this group something like this: The alternate issues below, two, three and four, will only be adopted if the prevailing vote is passed by a majority vote of all voters voting in this election.

CHAIRMAN GRAYBILL: Well, now, Mrs. --

DELEGATE BATES: Would that be possible?

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: It would be possible to say that, but that's not necessarily a true statement. Now, the problem is -- and I'm sure Mr. Schiltz and some of us can clear you up -- the problem does not arise in the gambling issue or the death penalty issue because the language does not have to be changed in the Constitution if you fail to get a fifty percent plus one vote.

DELEGATE BATES: Well, then, it's agreed that these two issues will be in the Constitution as they are now, then, and that really --

CHAIRMAN GRAYBILL: Well, now, we have to decide yet, and I've got three amendments up here on how the gambling wants to appear in there, but the point is that some language will appear in the Constitution on gambling and it doesn't have to be changed, no matter whether the one outside wins or loses, because it's a matter of just tacking on another phrase or taking out a phrase, but in the bicameral-unicameral, you really have to substitute one for the other. That's why we have to have the box and the language.

DELEGATE BATES: O.K.

CHAIRMAN GRAYBILL: Mr. Jacobsen.

DELEGATE JACOBSEN: Mr. President, Mr. Brown's move seems to me to be a good one, but now, what is the need for having box two-B then when we have already explained this and where we know that if the -- if we vote for the proposed

STATE PUBLISHING CO. HELENA, MONT.

Constitution and it already includes the bicameral, why do we have to have any more than just one box below there, for a unicameral, one house, legislature?

CHAIRMAN GRAYBILL: You really don't, Mr. Jacobsen, to get a vote but this body has decided a few minutes ago that they preferred putting bicameral-unicameral next to each-other, rather than putting unicameral, yes-no. They just felt the other form was fairer and more clear to the voters and we have made that decision.

DELEGATE JACOBSEN: Then they would be voting, if they voted for the Constitution, already voting for bicameral. If they placed a vote in box two below, they would be voting for bicameral again. Now, would that be the same as two votes for that bicameral?

CHAIRMAN GRAYBILL: No, and it wouldn't matter if bicameral got a majority or not below, if we get a Constitution above, but unicameral, as the box clearly explains, cannot win unless it gets a majority.

DELEGATE JACOBSEN: Then this is an unfair advantage for the bicameral because we've got them in the box up there and we've got them in the Constitution and you've got them down there a third time.

CHAIRMAN GRAYBILL: Well, you're right to this extent, that when we decided to put bicameral in instead of unicameral, there is a sense in which it gets an advantage. Now

STATE PUBLISHING CO. HELENA, MONT.

whether that's a great advantage or not, I don't know. If we had turned around and put unicameral in, the reverse would have been the case. And if we put neither in, then we're up against the Blaylock problem yesterday, that if we don't get fifty-one percent on one or the other, we have no legislative article, so you just can't have your cake and eat it, too. You've got to take some problem one way or the other, but we just decided that it would be fairer to put unicameral and bicameral side by side and the public gets a clear shot at which one they want, rather than putting unicameral, yes-no. Now, that's what we did when we voted for Mr. -- well, when we voted for Mr. Driscoll, right. When we voted for Mr. Davis, we put bicameral in. That's the first major decision. The second major decision is to put bicameral and unicameral together on the outside instead of just unicameral.

DELEGATE JACOBSEN: Then we could reconsider and take two-B out after we voted on the box language, couldn't we?

CHAIRMAN GRAYBILL: I'm sure we could. We could do it by suspending the rules tomorrow.

(Laughter)

CHAIRMAN GRAYBILL: Right, we could, though. You're right.

Mr. Foster.

DELEGATE FOSTER: Mr. Chairman, fellow Delegates,

STATE PUBLISHING CO. HELENA, MONT.

one point I think we've made beyond a reasonable doubt is that no matter what we put in the box, the voters are not going to understand the situation, because after two days, we can't understand the situation clearly. And, secondly, I think the original language of the committee was very concise, it did the job that was necessary, they discussed it adequately at length, and I support the original wording in the box of the majority of the committee. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Now, the issue is on Mr. Brown's language.

Mr. Hanson.

DELEGATE ROD HANSON: Mr. Chairman, I wonder if Delegate Sparks would yield to a question, please?

(Laughter)

CHAIRMAN GRAYBILL: Mrs. Sparks, will you yield?

DELEGATE SPARKS: (Nodding no. No audible response)

DELEGATE ROD HANSON: Thank you, Mr. President.

(Laughter)

CHAIRMAN GRAYBILL: Mrs. Sparks says she will not yield on this particular question.

Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, there's a related problem here. It's not precisely on the point, but now that we have items two-A and two-B, where they have a choice between unicameral and bicameral, I'm wondering if that can stand alone

STATE PUBLISHING CO. HELENA, MONT.

in case the Constitution up above is defeated. That gets back to the philosophy of our approach here, whether we are going to submit the Constitution as a whole, or whether we're going to allow bits and pieces of it to pass, and as it stands here, it would be possible for a voter to look at the ballot and say, I'm against the Constitution but I sure am in favor of a unicameral legislature so I'm going to vote for a unicameral legislature and leave the upper part blank. I think we have to take this into account somewhere in that box. If we want to do it that way. Now, there's two schools of thought here. One is that we were sent here to write a Constitution and nothing else, and we are going to submit a Constitution and nothing else, with a couple of alternates. The other school of thought is, no, we can amend the Constitution we now have with a legislative article. If you want to do the latter, then I would suggest that items two-A and two-B, the wording be changed and instead of saying, for a unicameral, one house, legislature, it read, for a unicameral, one house, legislative article, so that if it does pass, why, we have the article to go on.

CHAIRMAN GRAYBILL: I think, Mr. Swanberg, you raise a good point and I think we should take it up, but I don't think it's material to the issue. Mr. Johnson, do you want to discuss Mr. Brown's language?

DELEGATE JOHNSON: Mr. Chairman, I would like to

STATE PUBLISHING CO. HELENA, MONT.

discuss his language to this extent. I have a -- I would like to dress it up a little bit in an amendment to his language. Can I do that? Am I in order?

CHAIRMAN GRAYBILL: Well, I suppose you are. Do you want to shoot and we'll see what you say.

DELEGATE JOHNSON: In the box, put a period after legislature in the second line. Then the following language: If you wish to vote for a unicameral legislature, mark (X) in two-A below.

CHAIRMAN GRAYBILL: Well, now, the Chair will allow that if you insist but you haven't explained the problem to them and you haven't solved the problem by saying that.

DELEGATE JOHNSON: I think that this is very simple. Anybody can understand this language. It just says that the proposed Constitution includes a bicameral legislature, but if you wish to vote for a unicameral legislature, mark (X) in two-A below.

CHAIRMAN GRAYBILL: All right, then does that mean that we get both a bicameral and a unicameral if they both pass?

(Laughter)

DELEGATE JOHNSON: Well, it looked awful simple to me. I guess --

(Laughter)

CHAIRMAN GRAYBILL: That's ex post facto.

(Laughter)

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Now, Torrey, I think you've really got a problem unless you go with Mr. Brown here, on your language. But if you want me to put it, I will.

DELEGATE JOHNSON: Mr. Chairman, I'll withdraw and let's go after Mr. Brown's. Thank you.

CHAIRMAN GRAYBILL: Mr. Harper.

DELEGATE HARPER: Yes. I'm afraid I helped to start this by saying that wasn't clear to the voters, and I think Mr. Brown's does make it much clearer. On the other hand, it says that we are now, as a Constitutional Convention, playing supreme court and making a decision on this thing that we said was really maybe up in the air some time ago. I wish you or some lawyer here would say whether or not you are absolutely sure, following up what Mr. Heliker said, that there is no possibility that the supreme court could decide on a different interpretation of that old language in the 1889 Constitution. Someway, I hope we can leave that open. What we have done is, we have moved from an assumption on which we started, that we could have an alternate on the ballot and get a fair vote from the people, we came -- we moved all through the Convention on that assumption, most of us. We could have easily declared our intent as a Constitutional Convention that this is what we meant, that a majority of the voters in the election approve the Constitution and that a majority of those voting on each issue would therefore carry

STATE PUBLISHING CO. HELENA, MONT.

the one article or the other into the Constitution. I think we could have written that into our Constitution, taken that as our stand, declared that as our intent, and had a pretty good chance of interpreting that on a real close vote, let's say, in the supreme court. Now, then, the lawyers have told us that they're sure that's not the interpretation. All I want to do is put in the record that all of us are not sure that that is the only -- that their interpretation is the only possible interpretation of this law. They have not asked for an attorney general's ruling. They have not asked for a supreme court declaratory judgment of any kind, although when the council that was preparing for the Constitutional Convention came to nub issues like this, they were all in agreement, asked the supreme court on three major issues and got a contrary view on every one of the three. We have a record of that in the material that was put out to us ahead of time. I just simply wanted to leave -- if there is any way to leave an opening wedge for a contest, I'd like for this little speech in the record to be it.

CHAIRMAN GRAYBILL: Now, the Chair would like to observe that we do have to print this Constitution before we can sign it, and we have a lot more work to do. Now, I'm going to let you talk but we'll stay here tonight and finish this, regardless, or we'll stay here tonight and fail to finish it. So, you really ought to decide whether or not you are going to

STATE PUBLISHING CO. HELENA, MONT.

go along with the group, except on major issues, pretty soon and then you ought to stick with them. Mr. Kelleher, do you feel that Mr. Harper needs an answer?

DELEGATE KELLEHER: There is one thing that has been bothering me from the beginning of this week, and that is section nine of that article, article nineteen, and that's why I'm wondering about this language that Bruce has proposed. Let us assume that the supreme court decides that we have been called under article eight -- and I ask the lawyers to seriously consider this -- the last few sentences of article eight -- and our revision. Our new Constitution, I assume, is a revision or an alteration that must be approved at an election and unless so submitted and approved by a majority of the voters voting at the election. Now, let us assume, going down to section nine, the fifth line from the bottom of the present Constitution, that proposal number two for a unicameral legislature or a bicameral legislature is interpreted by the supreme court as being an amendment, then we clearly fall into section nine of article nineteen which says: Said amendment or amendments shall be -- and this would include the gambling and the death penalty -- shall be submitted to the qualified voters, electors, of the state for their approval or rejection and such as are approved by a majority of those voting thereon -- now, that's similar to the North Dakota constitution and the way they're working, operating, under -- shall become part

STATE PUBLISHING CO. HELENA, MONT.

of the Constitution. Therefore, if proposals two, three and four are considered as being under section nine, then all they need is a majority of those voting on those propositions, but if we put this language in, then we are locking ourselves out of having those three proposals be deemed as amendments.

CHAIRMAN GRAYBILL: Now, the Chair feels it is necessary to comment on what Mr. Kelleher has just said, for the record and for everybody's edification. The section nine to which Mr. Kelleher refers talks about amendments to this Constitution that have been proposed in either house of the legislative assembly, and it has nothing -- it does have the language he says in it, and as Mr. McDonough said yesterday, the -- or someone -- I think it was McDonough, maybe Holland -- that the fellows who wrote this Constitution surely didn't help us very much because they weren't very careful, but they did say that section nine applies to amendments which may be proposed in either house of the legislative assembly, and I don't see how there's any way that the Court can construe what we have done here as that. Now, they might construe it that way but the legislature is generally construed as not having the right to delegate its authority to make laws and that's the only way you could ever get through section nine down to that language. On the other hand there's a whole section, section eight, right above it in the Constitution which sets up this Constitutional Convention business, and it says: and unless

STATE PUBLISHING CO. HELENA, MONT.

so submitted and approved by a majority of electors voting at the election -- it's a tougher test -- no such revision, alteration or amendment -- and when it says no such, which of course we know is a bad word, revision, alteration or amendment, it seems to most of us lawyers that it is very difficult to argue to the supreme court Mr. Harper's position that if we have a majority on one thing then we only have to have a plurality on the other. Now, I would have liked to suggest that, and I did suggest it to the Style and Drafting Committee, but it's a bootstrap operation wherein you have to say that we changed the Constitution to a plurality by putting it into one of our articles, and most of the lawyers believe that we are not safe in doing that. But, it could be done and then it would go to the supreme court for definition and they might then void our election. Now, it's possible to do it those ways and it's possible to do it without a majority voting on it, but you're courting a supreme court case. The point of the majority proposal here is, and especially with Mr. Brown's amendment, that we have a way of doing it that doesn't court a supreme court case nearly as clearly, so what we're trying to do is find the best way to do it and most likely avoid a supreme court case.

Mr. Aronow.

DELEGATE ARONOW: Mr. Chairman, may I also offer this suggestion, both to Mr. Harper and to Mr. Kelleher. I

STATE PUBLISHING CO. HELENA, MONT.

see no way that these side proposals can be considered amendments because they're not amendments to the present Constitution. We have not adopted the new Constitution, so you can't amend that which does not exist. The vote of this body was to make them alternate proposals for portions of the submitted Constitution, so I see no way -- well, I shouldn't say quite no way because the supreme court can do anything and I've seen in the past where they've done most anything, but it would seem most unlikely and unreasonable to believe that they would say that either proposal two, three or four is an amendment. Thank you.

CHAIRMAN GRAYBILL: Now, the issue is on Mr. Brown's language for the box, which is: The proposed Constitution will include a bicameral, two house, legislature unless a majority of those voting in the election vote for a unicameral, one house, legislature in issue number two immediately below. The Chair will rule from now on that Mr. Swanberg's point, which is an interesting one and might be taken up, is immaterial to this particular little vote and so stay on Mr. Brown's language if you're going to discuss it.

Mr. Burkhardt.

DELEGATE BURKHARDT: Mr. Chairman, I wonder if Mr. Schiltz would yield to a question?

DELEGATE SCHILTZ: I yield.

DELEGATE BURKHARDT: Jack, I'm wondering whether

STATE PUBLISHING CO. HELENA, MONT.

you were interpreting our secretary of state's statement about what votes were going to count as the total number in this election. Is that endangered by the language in this box as now amended? In other words, he was going to say that the total number cast would be those in section one, issue one, for and against the Constitution.

DELEGATE SCHILTZ: I don't think that is involved here. It says in this election which, so far as I'm concerned, means this election for the whole ballot.

DELEGATE BURKHARDT: Well, who is going to interpret that eventually?

DELEGATE SCHILTZ: Well, that's -- on the side, this language would be apropros whether -- whatever number were chosen.

DELEGATE BURKHARDT: Fine.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Brown's language. We'll have a roll call vote. So many as are in favor of Brown's language vote Aye. So many as are opposed vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, Mr. Clerk, take the ballot.

STATE PUBLISHING CO. HELENA, MONT.

1	Aasheim	-	Absent	Choate	-	Absent
2	Anderson, J. H.	-	Aye	Conover	-	Aye
3	Anderson, O.	-	Aye	Cross	-	Aye
4	Arbanas	-	Aye	Dahood	-	Aye
5	Arness	-	Absent	Davis	-	Aye
6	Aronow	-	Aye	Delaney	-	Aye
7	Artz	-	Aye	Driscoll	-	Aye
8	Ask	-	Aye	Drum	-	Absent
9	Babcock	-	Aye	Eck	-	Nay
10	Barnard	-	Aye	Erdmann	-	Aye
11	Bates	-	Aye	Eskildsen	-	Aye
12	Belcher	-	Aye	Etchart	-	Aye
13	Berg	-	Aye	Felt	-	Absent
14	Berthelson	-	Aye	Foster	-	Nay
15	Blaylock	-	Nay	Furlong	-	Aye
16	Blend	-	Aye	Garlington	-	Aye
17	Bowman	-	Aye	Gysler	-	Aye
18	Brazier	-	Absent	Habedank	-	Aye
19	Brown	-	Aye	Hanson, R. S.	-	Aye
20	Bugbee	-	Aye	Hanson, R.	-	Aye
21	Burkhardt	-	Nay	Harbaugh	-	Absent
22	Cain	-	Aye	Harlow	-	Aye
23	Campbell	-	Excused	Harper	-	Nay
24	Cate	-	Absent	Harrington	-	Aye
25	Champoux	-	Absent	Heliker	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

Holland	-	Absent	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Nay
James	-	Aye	Roeder	-	Nay
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Nay
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Nay	Scanlin	-	Aye
Leuthold	-	Aye	Schiltz	-	Nay
Loendorf	-	Aye	Siderius	-	Nay
Lorello	-	Aye	Simon	-	Aye
Mahoney	-	Aye	Skari	-	Aye
Mansfield	-	Aye	Sparks	-	Aye
Martin	-	Aye	Speer	-	Nay
McCarvel	-	Aye	Studer	-	Aye
McDonough	-	Aye	Sullivan	-	Aye
McKeon	-	Absent	Swanberg	-	Aye
McNeil	-	Aye	Toole	-	Aye
Melvin	-	Aye	Van Buskirk	-	Aye
Monroe	-	Absent	Vermillion	-	Absent
Murray	-	Aye	Wagner	-	Aye
Noble	-	Aye	Ward	-	Aye
Nutting	-	Aye	Warden	-	Aye
Payne	-	Aye	Wilson	-	Aye
Pemberton	-	Aye	Woodmansey	-	Aye
Rebal	-	Aye	Mr. Chairman	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.

CLERK HANSON: Mr. Chairman, seventy-three Delegates voting Aye, thirteen No.

CHAIRMAN GRAYBILL: Seventy-three voting Aye and thirteen No, Mr. Brown's language has been adopted. Now, Mr. Habedank, do you want this other amendment put? Do you care about that?

DELEGATE HABEDANK: Yes, Mr. President. I feel that when we are talking about the unicameral it should be called to the attention of the public that they are not voting for unicameral permanently but only until 1980. However, I would be willing to have that dressed up any way Style and Drafting does it. I don't feel this committee needs to sit here all afternoon and do it.

CHAIRMAN GRAYBILL: Mr. Schiltz and members of the body, Mr. Habedank has an amendment: I move that the ballot be amended by Style and Drafting so as to show the unicameral legislature will be in effect only until 1980 when the question of continuing the unicameral legislature or reverting to a bicameral legislature will be referred to the electors. This is a matter of explaining to the voters what's in the Constitution in terms of unicameral. I'll allow Mr. Habedank's amendment and we can discuss it.

Mr. Schiltz.

DELEGATE SCHILTZ: Well, Mr. Chairman, the avowed object of the Style and Drafting Committee is apparent from

STATE PUBLISHING CO. HELENA, MONT.

the one page ballot on eight and a half by eleven paper that you have before you -- is to make the ballot as simple as possible. Now, I assume that we could put half of the debates in here, as I indicated a little while ago. We could put everything I said yesterday up in front of the chamber in here so there could be no question in anyone's mind why it was necessary to put this caveat in here. We could do all that. Now, in addition, though, to what we have provided, the Convention, prior to April sixth, will send a complete Constitution to every living soul in Montana that is registered to vote, and if they aren't intelligent enough to read that and if they don't read the newspapers, I can see no reason in the world why we must put in everything that everybody can possibly think of that a voter might have some disability on or some question on or need some information on. The list is endless, absolutely endless, and I resist the motion.

CHAIRMAN GRAYBILL: The Chair would point out that the official ballot contains a sentence at the top: The full text of the proposed Constitution and separate propositions is available for inspection at your polling place. Is there discussion?

Mrs. Reichert.

DELEGATE REICHERT: In principle, I agree with what Delegate Schiltz has said. I think the less complicated the ballot is, the better, but in this particular case, I think

STATE PUBLISHING CO. HELENA, MONT.

this issue is critical because we are not only voting for a unicameral, if we vote for it, we are also voting for reverting back to a bicameral in 1980, and I think that's the single, most important feature of this unicameral proposition and I would hope that somehow the Style and Drafting Committee, through the genius of its members, could find some way to inform the people that this is for a trial period and automatically we revert back to a bicameral.

CHAIRMAN GRAYBILL: Very well, the issue is on Mr. Habedank's amendment. Does anyone want a roll call vote? Mr. Habedank wants a roll call vote. So many as shall be in favor of Mr. Habedank's amendment that we put the fact that the unicameral will be subject to a vote in 1980 on the ballot, vote Aye, and so many as shall be opposed to that vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Take the ballot.

Aasheim	-	Nay	Aronow	-	Nay
Anderson, J. H.	-	Nay	Artz	-	Nay
Anderson, O.	-	Aye	Ask	-	Nay
Arbanas	-	Nay	Babcock	-	Nay
Arness	-	Absent	Barnard	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Bates	-	Nay	Eskildsen	-	Absent
2	Belcher	-	Absent	Etchart	-	Absent
3	Berg	-	Nay	Felt	-	Absent
4	Berthelson	-	Nay	Foster	-	Nay
5	Blaylock	-	Nay	Furlong	-	Nay
6	Blend	-	Nay	Garlington	-	Nay
7	Bowman	-	Aye	Gysler	-	Nay
8	Brazier	-	Aye	Habedank	-	Aye
9	Brown	-	Nay	Hanson, R. S.	-	Aye
10	Bugbee	-	Aye	Hanson, R.	-	Aye
11	Burkhardt	-	Nay	Harbaugh	-	Absent
12	Cain	-	Nay	Harlow	-	Aye
13	Campbell	-	Excused	Harper	-	Aye
14	Cate	-	Absent	Harrington	-	Nay
15	Champoux	-	Absent	Heliker	-	Aye
16	Choate	-	Absent	Holland	-	Absent
17	Conover	-	Nay	Jacobsen	-	Ay-
18	Cross	-	Nay	James	-	Absent
19	Dahood	-	Nay	Johnson	-	Nay
20	Davis	-	Nay	Joyce	-	Nay
21	Delaney	-	Nay	Kamhoot	-	Nay
22	Driscoll	-	Aye	Kelleher	-	Nay
23	Drum	-	Absent	Leuthold	-	Nay
24	Eck	-	Absent	Loendorf	-	Absent
25	Erdmann	-	Aye	Lorello	-	Nay

STATE PUBLISHING CO. HELENA, MONT. 3

Mahoney	-	Nay	Rygg	-	Nay
Mansfield	-	Nay	Scanlin	-	Nay
Martin	-	Nay	Schiltz	-	Nay
McCarvel	-	Aye	Siderius	-	Nay
McDonough	-	Absent	Simon	-	Nay
McKeon	-	Absent	Skari	-	Aye
McNeil	-	Nay	Sparks	-	Absent
Melvin	-	Nay	Speer	-	Aye
Monroe	-	Aye	Studer	-	Nay
Murray	-	Nay	Sullivan	-	Nay
Noble	-	Nay	Swanberg	-	Nay
Nutting	-	Nay	Toole	-	Absent
Payne	-	Nay	Van Buskirk	-	Absent
Pemberton	-	Aye	Vermillion	-	Absent
Rebal	-	Aye	Wagner	-	Nay
Reichert	-	Aye	Ward	-	Nay
Robinson	-	Aye	Warden	-	Nay
Roeder	-	Nay	Wilson	-	Nay
Rollins	-	Nay	Woodmansey	-	Nay
Romney	-	Nay	Mr. Chairman	-	Nay

CLERK HANSON: Mr. Chairman, twenty-one Delegates voting Aye, fifty-eight voting No.

CHAIRMAN GRAYBILL: Twenty-one having voted Aye and fifty-eight No, the motion fails. Now, members of the body, I have an amendment before me to section three proposed

STATE PUBLISHING CO. HELENA, MONT.

by Mr. Harper. Mr. Harper, do you want me to read your amendment?

DELEGATE HARPER: Yes, please.

CHAIRMAN GRAYBILL: Mr. Clerk, do you want to read it?

CLERK HANSON: (Reading) Mr. Chairman, I move to amend section three of the ballot by reversing the order of sections nine of the General Government number three, and putting the prohibition against allowing the legislature into the body of the Constitution. Signed, Harper. (End reading)

CHAIRMAN GRAYBILL: All right, now, perhaps the Chair can explain this. Mr. Harper has proposed an amendment which would have the effect of putting a different section into the Constitution, and Mrs. Bates, this explains why on this issue it's different than bicameral-unicameral. At the present time the Style and Drafting Committee has proposed putting into the Constitution the phrase -- I don't know the whole words but the substance of it is, there shall be no gambling, and then you vote on three, the exception -- except if fifty-one percent vote for three-A, for allowing the people or the legislature to authorize it, then we put, except as allowed by the people and the legislature back in. If, of course, more vote on -- if not more than fifty percent vote on three-A, why, then nothing happens and the Constitution continues to state -- continues to say there shall be no gambling.

STATE PUBLISHING CO. HELENA, MONT.

Now, Mr. Harper proposes to say in the Constitution, there shall be no gambling except as authorized by the legislature and the people under referendum, and then he proposes to change three so it says: For taking away the legislature's and the people's right to do this, or against taking it away. That's the only sense -- is that right, Mr. Harper?

DELEGATE HARPER: Mr. Chairman, if -- no, I understood exactly opposite. I understood what they have here to mean that what is written into the Constitution would be the allowance of the -- authorizing the legislature to change the prohibition on gambling and I was moving to reverse, to put it the same way it is now in the Constitution.

CHAIRMAN GRAYBILL: All right, then, what you -- now that I've explained it, I am right, am I not, Mr. Schiltz, the Constitution would say for -- would say there shall be no gambling, and then the exception would write on the addition? Is that right?

DELEGATE SCHILTZ: No, the way the committee voted on it is as Mr. Harper says, that the longer section nine, which you will find on page thirteen of the final report would have the first one in it, and then the vote would be for continuing that allowance or against continuing that allowance.

CHAIRMAN GRAYBILL: I see. So, in other words, the Constitution will now say, there shall be no gambling ex-

STATE PUBLISHING CO. HELENA, MONT.

cept if allowed by the legislature and the people.

DELEGATE SCHILTZ: And Mr. Harper is asking that that be reversed.

CHAIRMAN GRAYBILL: I see. So, Mr. Harper's amendment is to say what I said first, namely, that the Constitution should simply say there shall be no gambling, and then the vote on three will add, except as authorized by the people if a majority voted for it and would fail to add that if a majority didn't vote for it. Is that right, Mr. Harper?

DELEGATE HARPER: Yes, it is. I had a moment of hope there that I had misinterpreted this or misread it. Let me tell the body why I think this ought to be done. Several unicameralists rose during the vote yesterday to say, we are unicameralists but we think the bicameral is traditional. It has been in the Constitution that way, and the people who want to make the radical change should be forced on the ballot to come in with enough people to change it, and on the basis of tradition, that sounded like sense to some people, even who said they were unicameralists, and they went along with it. My assumption was that the Style and Drafting Committee would do the same thing with this section nine, that it would continue what was in the present Constitution, and then the people who wanted to change that now to authorize the legislature or by initiative or referendum of the people to do it, would, in a sense, have the burden of proof put on them as to why we

STATE PUBLISHING CO. HELENA, MONT.

should make the change. On that basis, and on the basis of the reason for our choosing to have an alternative in the first place, I think we ought now to support this motion I have made to just turn the Style and Drafting Committee's proposal around. Let me go over this one more time because I think this is an essential point. In fact, this would be a point that I, personally, would have to ponder quite a bit. Many people in this state, although we may not have heard from all of them, many people in this state believe that the prohibition against gambling that our state has enjoyed is one of the most important things they could have. Everything else being equal, many of them would prefer to keep the old Constitution if that is the only way they can be assured that they can vote against gambling. Now, they will be aware of the kind of figuring that was done, and I think correctly so, by Mr. Heliker. They will be aware of our discussion of this first issue of how much chance an alternate has, and there will be many among them who will say to these groups, the only possible way you can be sure, you can be safe on the gambling issue is now to vote against the new Constitution. This is what I hoped and prayed would not come to the body of the Constitution this way. For this reason and for the reason that I think this traditional part should be maintained and those who want now to change it should have to carry on the alternate, I have made this amendment and I hope it will be sustained by the body.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: I rise to resist the amendment by Delegate Harper. I think the vote was pretty clear the other day on this issue and I would, as a substitute motion, move that we adopt the majority -- the committee proposal from Style and Drafting for the obvious reason that the vote on the issue is fairly clear cut. I wouldn't object to seeing both propositions put as side issues on the ballot to be voted on freely by the majority of the people and let the will of the people decide the issue. I would prefer that the proposal to only authorize gambling by legislation be placed in the Constitution with a side issue to retain the present prohibition, but in either event we should either allow a complete free choice by placing both issues on the side for selection for and against, or else leave it as Style and Drafting has recommended.

CHAIRMAN GRAYBILL: Now, Mr. Choate, I can't allow you to make a substitute motion back to the motion that's just been amended because the way to do that is to defeat Mr. Harper's amendment. We already have the Style and Drafting moved, so your substitute motion was what was amended.

DELEGATE CHOATE: O.K.

CHAIRMAN GRAYBILL: Do you follow me? In other words, you can defeat the Harper motion. There's no use saying -- reversing it. He has already reversed it once.

STATE PUBLISHING CO. HELENA, MONT.

Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, I think that everyone will recall that yesterday we had a vote on Mr. Davis' motion that unicameral or bicameral -- in that case bicameral -- be put in the body of the Constitution. Now, when I first began to explain the ballot, I said it was implicit in the ballot we were proposing that we would have this one section of the gambling in the Constitution, but I don't think there has been a motion and a vote. I was just suggesting to Mr. Harper that he move, rather than reverse this on the ballot, that he move that one of them belong -- be put in the Constitution and the other be placed -- or a vote on the other be placed as an alternate.

CHAIRMAN GRAYBILL: Well, Mr. Schiltz, you lost me. He has moved that the other one be placed in instead of the one that's in there. Is there anything wrong with that?

DELEGATE SCHILTZ: Well, I guess not. I just understood him to say that he moved that this section three be reversed, and what I was concerned about is -- if he made that motion, that's fine.

CHAIRMAN GRAYBILL: The Chair understands the sense of the motion to be that he would put the language into the Constitution to say there shall be no gambling, and then Style and Drafting would have to restyle three so that the exception was placed outside. Now, Mr. Kamhoot, I'm aware that you have

STATE PUBLISHING CO. HELENA, MONT.

another amendment here and it doesn't seem to me that it reaches the same point as this. It's a matter of explanation, isn't it? I don't see that it reaches the point that Mr. Harper and Mr. Choate are talking about.

DELEGATE KAMHOOT: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: I, I believe, like the language of mine a little better --

CHAIRMAN GRAYBILL: All right, we'll put yours --

DELEGATE KAMHOOT: I think Delegate Harper's --

CHAIRMAN GRAYBILL: We'll put yours --

DELEGATE KAMHOOT: -- is going for the same thing.

CHAIRMAN GRAYBILL: We'll put yours as a substitute motion, but the language -- well, we'll put it. Mr. Clerk, do you want to read Mr. Kamhoot's?

CLERK HANSON: (Reading) Mr. Chairman --

CHAIRMAN GRAYBILL: This will be a substitute motion to yours, Mr. Harper.

DELEGATE KAMHOOT: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kamhoot.

DELEGATE KAMHOOT: Mr. Chairman, I would like one change. I would like to use the language that Delegate Brown put in and was accepted by this body. I think it's better than what I had in mine, if he can do that in that box up there, above. It might save some time and argument here on

STATE PUBLISHING CO. HELENA, MONT.

the floor.

CHAIRMAN GRAYBILL: Mr. Kamhoot, the Chair is confused, then, because the nature of the ballot and the form that's suggested by Style and Drafting, in either Mr. Harper's form or in the form that's offered here, does not require a box of that nature and so it's only adding another matter to the ballot that's confusing. Now, maybe I don't understand you, but if you do it either way you don't need a box because nothing is changed. It's either added -- nothing has to be substituted for. It's either added in or taken out.

DELEGATE KAMHOOT: Well, perhaps I am confused on this. The way I understand it is that there is nothing going to be included in the Constitution unless by a majority vote, fifty percent plus one, something could be put in.

CHAIRMAN GRAYBILL: No, that is not the situation. The situation on the majority report is that the Constitution as written up and finished here, when we go back on general orders, will say there shall be no gambling except as authorized by the legislature and the people. And, then, if that's in the Constitution their section three here, three-B, must get fifty-one percent in order to take the last half of that idea, namely, except as allowed by the legislature and so forth, out. Now, Mr. Harper has proposed reversing that in this sense, that he would put into the Constitution only the first half of that sentence, namely, there shall be no gamb-

STATE PUBLISHING CO. HELENA, MONT.

ling, and then he would make three-A and B say, for saying except as authorized by the people or the legislature, and fifty-one percent would have to vote on that to put it in, so there is no explanation needed.

DELEGATE KAMHOOT: Very well, that is the point I wanted to make and I withdraw my amendment, but I would like to speak to Mr. Harper's amendment.

CHAIRMAN GRAYBILL: Very well, we'll withdraw your amendment and you may speak on Mr. Harper's.

DELEGATE KAMHOOT: I think to be consistent here, that this is a provision that we have had in the Constitution for probably, I think, eighty two years. It was in there from the start. It would seem that in this case, as in all cases, the challenger must be the challenger. He has to prove his point if he wants to change something, so it would seem that this would only be proper at this time, that in our new document that we would have the provision as we had in our present Constitution that there shall be no gambling. Now, if the people that want gambling in Montana in any manner, whether the legislature provides for it or not, I think they should have to prove this point. Therefore, to be, as I said before, consistent with it, I would support Mr. Harper's amendment that we leave the section in the Constitution before we vote on it even, that says, gambling -- all forms of gambling, lotteries and gift enterprises are prohibited. Thank you, Mr. Chairman.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Mr. Chairman, I don't wish to cover this whole section. Everyone talked -- we spent about a day on it the other day as to whether we were going to be -- have the gambling prohibition in the Constitution or not, and we decided to leave it on the ballot, but we did not decide to remove the present prohibition that's in the Constitution from the Constitution. We decided, it is my understanding, to leave the alternate choice on the ballot. I support Mr. Harper's amendment and I think it's very, very important, now that we're down to the last day and the last hour and we're all kind of tired, to not let something slip through and say the Constitutional Convention has removed the prohibition against gambling. If we want to put it on a side issue and the people vote on it remove it, but I think it's extremely important, unless it's the will of this gathering, this group to do so, to be sure that that present prohibition remains in, which is section nine on page thirteen, the second one, and put the -- the other issue would be the contender, then, and I think we should go ahead and vote on it and see what the will of the body is, and it's either a for or against proposition, it seems like. We've discussed it and it has been discussed in Montana since time began.

CHAIRMAN GRAYBILL: Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, fellow Delegates,

STATE PUBLISHING CO. HELENA, MONT.

commenting on Mr. Kamhoot's statement that we have to challenge here, I don't think this is a challenge. I think this is a new Constitution we are writing and I don't think we should forget this, and whether -- I would go along with the fact that two of them be on the side ballot and neither one in, but the other day I think we were very explicit in voting down Mr. Harper's amendment and I don't think we should put it back in right now. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, fellow Delegates, I support Harper's amendment, and I do it for this reason. Even though I would concede that gambling can be legislative and it can be left up to the legislature, I would call to your attention that every person who feels the opposite, who feels that gambling should be -- an anti-gambling clause should be in this Constitution -- would be forced to vote against the Constitution. Now, those who want the first section nine in this Constitution cannot take the same position. If they want to defeat the Constitution, they can do so. There is nothing we can do about it, but if they do defeat the Constitution, they will then have the anti-gambling clause in it and the only way that we can assure having this Constitution accepted universally by the people is to let those who have the present Constitution, the anti-gambling clause in it, have that in the Constitution as it is and those who want to take it out run

STATE PUBLISHING CO. HELENA, MONT.

the risk of coming in and voting it out. If enough people in the state of Montana want to do this, where both those who are in favor of the Constitution and those who are against the Constitution can vote, they can do it. I agree with Dr. Heliker, the odds are bad, but I don't think they're as bad as if only those who were for the Constitution could vote on it, and I would urge you most strongly to leave the Constitution as it is, keep section nine, the second clause -- all forms of gambling, lotteries and gift enterprises are prohibited -- in the Constitution and that will be adopted unless the other obtains a majority of all those voting on the question.

CHAIRMAN GRAYBILL: Mr. Choate.

DELEGATE CHOATE: Mr. Chairman, I see a lot of places in our old Constitution that we have completely kicked out the door and made radical changes in many areas without the concern of maintaining what was there before because it had been there so long. I think that the proper perspective on this issue would be to place it as a free choice item as a side issue, with both three-A and three-B placed as side issues with no reference to either one in the Constitution. I don't think that there's anything that would cause a lot of alarm. If we offered it as free choice --

CHAIRMAN GRAYBILL: Now, Mr. Choate, I am perfectly happy that you put this proposition, but this is the third time you have spoken on it, and what you're proposing is the

STATE PUBLISHING CO. HELENA, MONT.

deletion you proposed the other day that this Convention voted down. If we put both of them as a side issue, and you may make a motion to do that, then if they get forty-seven and forty-nine percent, nothing's in the Constitution. Now, if you want to do that, you make a motion to that, but you're not speaking to Harper's amendment and it confuses the body not to understand. If you want to make that motion, do so, and we'll take your vote again, but that's a different issue than what we're arguing right now. Do you follow me?

DELEGATE CHOATE: Yes, I follow.

CHAIRMAN GRAYBILL: O.K., if you want to make a motion, fine. If you don't, then let somebody else discuss the Harper amendment or else you discuss the Harper amendment.

DELEGATE CHOATE: All right, I move then that three-A and three-B be placed as side issues on the ballot for the choice of the voters.

CHAIRMAN GRAYBILL: All right, Mr. Choate has made -- proposes an amendment to -- a substitute motion to section -- to the third section of the ballot to place three-A and B -- to make three-A and B say, one of them -- three-A would say: There shall be no gambling. And three-B would say: There shall be no gambling except as authorized by the legislature and the public. In other words, place both gambling issues on the side and put nothing in the Constitution. That's Mr. Choate's proposal now and that's what we are debating.

STATE PUBLISHING CO. HELENA, MONT.

Mr. Hanson.

DELEGATE ROD HANSON: Mr. Chairman, I oppose Delegate Choate's motion and support Delegate Harper's motion and without going into a lot of talk, I think that Delegate Habedank has made a real good point here. I think that the people that are opposed to gambling will vote for the new Constitution if we have that language in there. I think that the people that want gambling, or want the legislature to authorize gambling, will come out and vote on the thing. I think that Mr. Choate's proposal will negate this type of thing, so I would say that if we really want to pass this Constitution, if this is the main thing that we want to do, then we should vote for Mr. Harper's amendment.

CHAIRMAN GRAYBILL: Mr. McNeil.

DELEGATE McNEIL: Mr. Chairman, I oppose the Choate amendment. I support George Harper's amendment, wholeheartedly. And I disagree with Lyman Choate when he said we voted the other day for the majority proposal which would permit the legislature to authorize gambling. I voted for that because the motion was put to have that issue as an alternative on the ballot. The Style and Drafting report now is not to have that as an alternative on the ballot but to have it in the body of the Constitution, so for that reason, I submit that George Harper's one hundred percent correct. In addition, I think there is a very practical reason to support George Harper's

STATE PUBLISHING CO. HELENA, MONT.

position, and that is the voter psychology. If we have this permission of gambling by the legislature in the body of the Constitution, as submitted by the Style and Drafting Committee, those who oppose gambling in this state, and there's lots of them, including myself, will be tempted to vote against the Constitution, period, because it's in there. On the other hand, those who favor gambling, if gambling is out at the side, the permissiveness by the legislature, rather than in the body, they won't vote against the Constitution because the only way they can get gambling is to vote for the Constitution and vote for the side amendment. So, for that reason, I submit that the voter psychology -- the best approach to getting this document passed is not to have gambling in the body, the permissiveness by the legislature, but, rather, to have it as I voted for it the other day, to have the gambling authorized by the legislature as the alternative and have in the body of the Constitution our present prohibition.

CHAIRMAN GRAYBILL: Mr. Arbanas.

DELEGATE ARBANAS: Mr. Chairman, fellow Delegates, I can't help noticing that those who are speaking for the Harper amendment are those who voted against the gambling yesterday and it just seems to me that they are trying to reverse the decision of this house. When we voted on which of the propositions, unicameral or bicameral, were going into the body of the Constitution, it was by the will of this house.

STATE PUBLISHING CO. HELENA, MONT.

Now we have an appeal that it should go by tradition. I would like to say to the -- I understand what is going on here but I think that the attempt really is to have us to reverse ourselves and what should go into the Constitution -- I kind of oppose both of these measures -- (inaudible) should go into the Constitution what came out with the number one vote yesterday or the other day, and that is that the legislature could permit it. I think that would reflect this group much more.

CHAIRMAN GRAYBILL: Mr. Burkhardt.

DELEGATE BURKHARDT: I rise as a member of Style and Drafting who voted against the recommendation of the committee to put the alternate in which allows the legislature and the people to authorize gambling, and I feel that some of the statements that have been made here this afternoon have been misleading. We did not take a preference of this body in terms of what would definitely go into the Constitution. I voted on the prevailing side the other day because I wanted it as a side issue on the ballot and not because I wanted it in the body of the Constitution as a first choice. What complicates this now is the fact that Mr. Heliker is probably right in his statement about how things are going to happen on this election, and I feel we create a tremendous backspin on this whole number one issue, for or against the Constitution. We won't get a clear indication of the readiness of our people in most areas for reform, will simply get a vote up there on

STATE PUBLISHING CO. HELENA, MONT.

gambling or non-gambling and that's very discouraging. I would much rather have the alternate be something that is a new departure, rather than to assume that we can guess the voters of this state are going to take that much backspin in issue number one. I would support George Harper's amendment.

CHAIRMAN GRAYBILL: Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, fellow Delegates, I think somewhere along the line we're getting off. Mr. McNeil made a statement -- we are now supporting Mr. Choate. I will support Mr. Choate's motion, which does not put this in the body of the Constitution. It leaves them both out and I think this is the thing we should be talking on now, not the fact that this is still in the body of the Constitution. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, I oppose Mr. Choate's motion and support Mr. Harper's. I observe that we have, for the first time today, had two lawyers get up and make a very persuasive argument. I observe, also, however, the argument they made was psychological and not legal and you can draw what conclusions you like from that.

CHAIRMAN GRAYBILL: All right, the issue is on Mr. Choate's motion to take all the language out of the Constitution and put both of them as alternatives on the side. And we will have a roll call vote. So many as shall be in favor

STATE PUBLISHING CO. HELENA, MONT.

of Mr. Choate's motion say Aye; so many as are opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well,cast the ballot.

Aasheim	-	Nay	Brown	-	Nay
Anderson, J. H.	-	Nay	Bugbee	-	Absent
Anderson, O.	-	Nay	Burkhardt	-	Nay
Arbanas	-	Aye	Cain	-	Aye
Arness	-	Nay	Campbell	-	Excused
Aronow	-	Nay	Cate	-	Absent
Artz	-	Nay	Champoux	-	Aye
Ask	-	Nay	Choate	-	Aye
Babcock	-	Nay	Conover	-	Aye
Barnard	-	Nay	Cross	-	Nay
Bates	-	Nay	Dahood	-	Absent
Belcher	-	Nay	Davis	-	Nay
Berg	-	Nay	Delaney	-	Nay
Berthelson	-	Nay	Driscoll	-	Aye
Blaylock	-	Nay	Drum	-	Absent
Blend	-	Nay	Eck	-	Nay
Bowman	-	Nay	Erdmann	-	Nay
Brazier	-	Nay	Eskildsen	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

1	Etchart	-	Absent	Mansfield	-	Nay
2	Felt	-	Absent	Martin	-	Nay
3	Foster	-	Aye	McCarvel	-	Aye
4	Furlong	-	Nay	McDonough	-	Aye
5	Garlington	-	Nay	McKeon	-	Absent
6	Gysler	-	Absent	McNeil	-	Nay
7	Habedank	-	Nay	Melvin	-	Nay
8	Hanson, R. S.	-	Nay	Monroe	-	Absent
9	Hanson, R.	-	Nay	Murray	-	Nay
10	Harbaugh	-	Absent	Noble	-	Absent
11	Harlow	-	Nay	Nutting	-	Nay
12	Harper	-	Nay	Payne	-	Nay
13	Harrington	-	Aye	Pemberton	-	Nay
14	Heliker	-	Nay	Rebal	-	Aye
15	Holland	-	Absent	Reichert	-	Nay
16	Jacobsen	-	Nay	Robinson	-	Nay
17	James	-	Absent	Roeder	-	Nay
18	Johnson	-	Nay	Rollins	-	Absent
19	Joyce	-	Nay	Romney	-	Aye
20	Kamhoot	-	Nay	Rygg	-	Aye
21	Kelleher	-	Aye	Scanlin	-	Nay
22	Leuthold	-	Nay	Schiltz	-	Nay
23	Loendorf	-	Absent	Siderius	-	Nay
24	Lorello	-	Aye	Simon	-	Nay
25	Mahoney	-	Nay	Skari	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

Sparks	-	Nay	Vermillion	-	Absent
Speer	-	Nay	Wagner	-	Nay
Studer	-	Nay	Ward	-	Aye
Sullivan	-	Nay	Warden	-	Nay
Swanberg	-	Nay	Wilson	-	Nay
Toole	-	Nay	Woodmansey	-	Nay
Van Buskirk	-	Nay	Mr. Chairman	-	Nay

CLERK HANSON: Mr. Chairman, sixteen Delegates voting Aye, sixty-seven voting No.

CHAIRMAN GRAYBILL: Sixteen having voted Aye and sixty-seven having voted No, Mr. Choate's motion is defeated. We are now back to Mr. Harper's motion which is to amend the Style and Drafting report so that we would put in the Constitution the simple language, there shall be no gambling, and put the exception, except as authorized by the people and the legislature, as the one that has to get fifty-one percent, on the side.

Mr. Johnson.

DELEGATE JOHNSON: I have not had but just a few opportunities to support Mr. Harper. In this, I do wholeheartedly. The cowboys down there in the Powder River country have said quite a number of times when they get into arguments with a group, quod homines, tot sententae. That means many men, too many minds.

(Laughter)

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: All right, the issue is on Mr. Harper's motion which would have the effect of reversing the nature of the ballot here and would put the language, there shall be no gambling, in the Constitution and put the exception, except as authorized by the legislature and the people, on the outside so that you'd have to get fifty-one percent to change the Constitution. All in favor of that motion, vote Aye; all opposed, vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Aasheim	-	Aye	Berg	-	Aye
Anderson, J. H.	-	Aye	Berthelson	-	Aye
Anderson, O.	-	Aye	Blaylock	-	Aye
Arbanas	-	Nay	Blend	-	Aye
Arness	-	Nay	Bowman	-	Aye
Aronow	-	Nay	Brazier	-	Nay
Artz	-	Aye	Brown	-	Nay
Ask	-	Aye	Bugbee	-	Absent
Babcock	-	Aye	Burkhardt	-	Aye
Barnard	-	Aye	Cain	-	Aye
Bates	-	Aye	Campbell	-	Excused
Belcher	-	Aye	Cate	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

1	Champoux	-	Nay	Heliker	-	Aye
2	Choate	-	Nay	Holland	-	Absent
3	Conover	-	Aye	Jacobsen	-	Aye
4	Cross	-	Aye	James	-	Absent
5	Dahood	-	Aye	Johnson	-	Aye
6	Davis	-	Aye	Joyce	-	Aye
7	Delaney	-	Aye	Kamhoot	-	Aye
8	Driscoll	-	Nay	Kelleher	-	Nay
9	Drum	-	Absent	Leuthold	-	Aye
10	Eck	-	Aye	Loendorf	-	Aye
11	Erdmann	-	Aye	Lorello	-	Nay
12	Eskildsen	-	Nay	Mahoney	-	Aye
13	Etchart	-	Absent	Mansfield	-	Aye
14	Felt	-	Absent	Martin	-	Aye
15	Foster	-	Nay	McCarvel	-	Nay
16	Furlong	-	Nay	McDonough	-	Nay
17	Garlington	-	Nay	McKeon	-	Absent
18	Gysler	-	Absent	McNeil	-	Aye
19	Habedank	-	Aye	Melvin	-	Aye
20	Hanson, R. S.	-	Aye	Monroe	-	Nay
21	Hanson, R.	-	Aye	Murray	-	Aye
22	Harbaugh	-	Absent	Noble	-	Aye
23	Harlow	-	Aye	Nutting	-	Aye
24	Harper	-	Aye	Payne	-	Aye
25	Harrington	-	Nay	Pemberton	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.

Rebal	-	Nay	Speer	-	Aye
Reichert	-	Aye	Studer	-	Nay
Robinson	-	Absent	Sullivan	-	Aye
Roeder	-	Aye	Swanberg	-	Aye
Rollins	-	Absent	Toole	-	Aye
Romney	-	Nay	Van Buskirk	-	Aye
Rygg	-	Aye	Vermillion	-	Absent
Scanlin	-	Aye	Wagner	-	Nay
Schiltz	-	Aye	Ward	-	Nay
Siderius	-	Aye	Warden	-	Aye
Simon	-	Aye	Wilson	-	Aye
Skari	-	Aye	Woodmansey	-	Aye
Sparks	-	Aye	Mr. Chairman	-	Aye

CLERK HANSON: Mr. Chairman, sixty-three Delegates voting Aye, twenty-three voting No.

CHAIRMAN GRAYBILL: Sixty-three Delegates having voted Aye and twenty-three Delegates having voted No, Mr. Harper's motion prevails and Style and Drafting will put the other words into the Constitution and change the nature of three so that it's clear how it works.

Mr. Schiltz.

DELEGATE SCHILTS: Mr. Chairman, I think the language in -- for the ballot on three obtains for either situation.

CHAIRMAN GRAYBILL: I think you're right. I think

STATE PUBLISHING CO. HELENA, MONT.

line three-A has to have fifty percent plus one and it will allow the exception going into the Constitution. All right.

Mr. Harlow.

DELEGATE HARLOW: I am a little bit disturbed at the wording on that voting part down there. I haven't thought up any real good wording now, but three-B says, against allowing the people or the legislature to authorize gambling. Are you stating in there that you are making it impossible for the people to initiate an amendment to the Constitution? That's what it sounds like.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Yes, we talked about that in committee and the people can initiate a constitutional amendment. We can't stop them from doing that, but they can't have an initiative measure that would say we have gambling if -- or, under any circumstances if the prohibition is in there, any more than the legislature could pass an act having gambling while Mr. Harper's provision is in there.

DELEGATE HARLOW: Mr. Chairman, I'm still -- I still feel we can word that better because reading that off and taking it just as it says there, it means that the people cannot initiate an amendment to the Constitution authorizing gambling.

CHAIRMAN GRAYBILL: Well, Mr. Harlow, surely you're not talking about the people's basic right to amend the Constitution, which they have for anything? The point is, whether

STATE PUBLISHING CO. HELENA, MONT.

to put into the Constitution language authorizing the people -- you know, the language is specific that we passed the other day and it says, or the people may by initiative -- isn't that what you're talking about?

DELEGATE HARLOW: Yes.

CHAIRMAN GRAYBILL: You see, the people by initiative -- unless we authorize the people to do it by initiative on the gambling issue, then the people are forced to amend the constitution, and as we had when Mr. Etchart discussed this, there is a different measure of initiative for amending the Constitution than there is for the other thing.

DELEGATE HARLOW: Yes, very true.

CHAIRMAN GRAYBILL: So, it seems to me that this certainly sets the sense of what we're putting in the exception, if we ever put it in.

DELEGATE HARLOW: Well, O.K., I brought the point out and that's the thing I had in mind. I haven't any better solution right now. I may think up one a little later, so --

CHAIRMAN GRAYBILL: Mr. Habedank.

DELEGATE HABEDANK: Mr. President, I would like to make a motion -- I move to amend the wording of three-A and three-B to agree with the wording of sections nine, the sense of which would be, For allowing the legislature or the people through initiative or referendum to authorize gambling, and then it would be just the reverse in three-B. In other words,

STATE PUBLISHING CO. HELENA, MONT.

in one section they allow the legislature or the people through initiative or referendum to authorize it and in the other we didn't.

CHAIRMAN GRAYBILL: Mr. Habedank proposes an amendment to three-A and B, which would make them say, For allowing the legislature or the people through initiative or referendum to authorize gambling, and Against allowing the legislature or the people through initiative or referendum to authorize gambling. In other words, he changes the order of it so he can get the legislature in front and the people through initiative or referendum, and he adds people through initiative or referendum in order to cover Mr. Harlow's problem. That amendment is allowed. We'll discuss that.

Mr. Harrington.

DELEGATE HARRINGTON: Mr. Chairman, I'd just like to speak against this. We have already cut the heart out of the so-called issue right here. We have made -- we have put the prohibition against gambling into the Constitution. Now we want to muddle the words, which is basically this. This is basically -- this basically states, are you for or against this. Now, we want to muddle the words so there is a little bit of conflict there, and I say if we go along with this we will have a problem. I think that the words that are put in by Mr. Habedank would make it a little harder for the people to understand exactly what they're voting for, and as everybo

STATE PUBLISHING CO. HELENA, MONT.

knows here, this is one of the most important things when people are voting, and they vote very quickly some times, and this could hurt. Thank you.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, now that we only have two more to go, let's keep battling it out, shall we? You have an unerring instinct of going to the point that the committee started with and retreated from. We started with putting all those words in there and the committee was unanimous that it was uncessary to have them in in any respect and this was much plainer to the normal voter, the average voter, just exactly what it amounted to. Just as Mr. Harrington said, you throw in a couple of words like initiative and referendum and down there in Powder River county they probably know what they mean but there might be other places where they don't. We resist the -- or, I resist the amendment.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, I think this is the time now to start asking ourselves whether gambling and the death penalty should be considered as separate items to be voted on by the people, or whether it has to be part of the Constitution. And just as a beginner, I would suggest that our easiest solution to our wording problem is to cite our gambling alternate at length in our ballot. It's very short and simply says: All forms of gambling, lotteries and gift

STATE PUBLISHING CO. HELENA, MONT.

enterprises are prohibited unless authorized by act of the legislature or by the people through initiative or referendum. We could cite that at length in the ballot and underneath, simply say, For inclusion in the proposed Constitution; Against inclusion in the proposed Constitution, and do the same thing with the death penalty, which is likewise short, and it simply says: Death shall not be prescribed as a penalty for any crime against the state. There is the sentence verbatim which they vote upon and beneath that, simply say, For inclusion in the proposed Constitution; or Against inclusion in the proposed Constitution. Now, do we say, for inclusion in the proposed constitution, or do we say, for the proposed amendment? This gets at the heart of our problem here. This would allow, you see, on both of these points for the public to be voting on the gambling and the death penalty issue as a separate item and whether the Constitution above won or lost, then the gambling and the death penalty thing would go through if they were approved, if that's what we want.

CHAIRMAN GRAYBILL: Mr. Swanberg, I understand your point as far as putting -- there's a different way of putting it on the ballot. I understand that, but on this issue of somehow creating an amendment, we are not authorized to create amendments, are we? We're authorized to create -- or am I wrong?

DELEGATE SWANBERG: Well, I'm not quite sure but I

STATE PUBLISHING CO. HELENA, MONT.

have here an analysis of the Enabling Act and it says the Convention may submit proposals to the electorate for ratification in any of the following forms: first, submitted as a unit in the form of a new Constitution; (b) submitted as a unit with the exception of separate proposals to be voted on individually; or, (c), submitted in the form of a series of separate amendments. Now, it doesn't say that we can combine -- it's silent on whether we can use all three approaches, but it looks to me like we could.

CHAIRMAN GRAYBILL: I see what you mean. You've got two ideas there.

DELEGATE SWANBERG: Yes.

CHAIRMAN GRAYBILL: Maybe we can straighten them out here.

DELEGATE SWANBERG: The question seems to me to be one of tactics, primarily.

CHAIRMAN GRAYBILL: Said constitution shall meet within three months after each election and prepare such revisions, alterations or amendments to the Constitution as may be deemed necessary which shall be submitted to the electors for their ratification or rejection at an election appointed for that purpose not more than two -- and so forth. Now, I see your point and perhaps we should cross it. I don't know whether you want to cross it yet or do we want to clear up the Habedank amendment?

STATE PUBLISHING CO. HELENA, MONT.

Mr. Dahood.

DELEGATE DAHOOD: Mr. Chairman, I am opposed to the Habedank amendment but I wonder how many Delegates here appreciate the fact that there are a number of Delegates on this floor and a number of observers that are beginning to think that we are getting much too talkative and too verbose over the work of the committee. There are eleven members on the Style and Drafting Committee. They had no particular difficulty, apparently, in coming up with an official ballot. I am willing to concede that the work we have done so far was perhaps necessary. We are not going to an illiterate citizenry. We are going to an intelligent citizenry and they are going to be able to look at this ballot and they're going to know now what they should do and what they should not do, and they've got language that's very simple and very understandable and I anticipate that we're going to have some argument, too, on whether we can improve upon For the death penalty or Against the death penalty. And sometimes there is a great deal of virtue in simplicity and I think it's time that we finish our consideration of the official ballot; the two issues that remain are just as clear as they're ever going to be and there is no way to attain perfection, there is no way to satisfy everyone, and I think it's about time we paid some consideration and some tribute to the committee that spent hours and hours thinking about this problem and that have now presented

STATE PUBLISHING CO. HELENA, MONT.

to us, with the work we have already done, the best type of ballot we are going to get, and I oppose the Habedank amendment.

CHAIRMAN GRAYBILL: Mr. Wilson.

DELEGATE WILSON: Mr. President, my cowboys might not be too smart,but I think they can understand the ballot the way it's presented and I'm against cluttering it up with any more language and making it harder to understand.

CHAIRMAN GRAYBILL: Mr. Siderius.

DELEGATE SIDERIUS: Mr. Chairman, I think I'm about the simplest minded person here and I can understand it very well. I think we can go ahead with it.

CHAIRMAN GRAYBILL: Now, the issue is on the Habedank amendment, and if you want to discuss the Habedank amendment, Mr. Swanberg, fine. After we handle that, I'll discuss your other problem. All right, Mr. Habedank proposes an amendment which would say in three-A and three-B, allowing the legislature -- for allowing the legislature and the people through initiative and referendum to authorize gambling, and against authorizing the legislature and the people through initiative and referendum. Roll call vote. So many as are in favor of the Habedank amendment to change that language, vote Aye; so many as are against vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change

STATE PUBLISHING CO. HELENA, MONT.

his vote?

(No response)

CHAIRMAN GRAYBILL: Now, every Delegate clearly hasn't voted or else there are a lot of them -- and there are a lot of them not voting, but that's fine. We'll close the ballot.

Aasheim	-	Nay	Bugbee	-	Nay
Anderson, J. H.	-	Nay	Burkhardt	-	Nay
Anderson, O.	-	Aye	Cain	-	Aye
Arbanas	-	Absent	Campbell	-	Excused
Arness	-	Nay	Cate	-	Absent
Aronow	-	Nay	Champoux	-	Nay
Artz	-	Nay	Choate	-	Nay
Ask	-	Aye	Conover	-	Nay
Babcock	-	Nay	Cross	-	Nay
Barnard	-	Nay	Dahood	-	Nay
Bates	-	Nay	Davis	-	Absent
Belcher	-	Nay	Delaney	-	Absent
Berg	-	Nay	Driscoll	-	Nay
Berthelson	-	Nay	Drum	-	Absent
Blaylock	-	Nay	Eck	-	Nay
Blend	-	Nay	Erdmann	-	Nay
Bowman	-	Nay	Eskildsen	-	Absent
Brazier	-	Aye	Etchart	-	Absent
Brown	-	Absent	Felt	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

Foster	-	Nay	McCarvel	-	Nay
Furlong	-	Nay	McDonough	-	Nay
Garlington	-	Nay	McKeon	-	Absent
Gysler	-	Absent	McNeil	-	Nay
Habedank	-	Aye	Melvin	-	Nay
Hanson, R. S.	-	Absent	Monroe	-	Aye
Hanson, R.	-	Aye	Murray	-	Nay
Harbaugh	-	Absent	Noble	-	Nay
Harlow	-	Aye	Nutting	-	Nay
Harper	-	Aye	Payne	-	Nay
Harrington	-	Nay	Pemberton	-	Nay
Heliker	-	Nay	Rebal	-	Nay
Holland	-	Absent	Reichert	-	Nay
Jacobsen	-	Nay	Robinson	-	Nay
James	-	Absent	Roeder	-	Nay
Johnson	-	Nay	Rollins	-	Nay
Joyce	-	Nay	Romney	-	Nay
Kamhoot	-	Nay	Rygg	-	Nay
Kelleher	-	Nay	Scanlin	-	Nay
Leuthold	-	Nay	Schiltz	-	Nay
Loendorf	-	Nay	Siderius	-	Nay
Lorello	-	Absent	Simon	-	Nay
Mahoney	-	Nay	Skari	-	Nay
Mansfield	-	Nay	Sparks	-	Nay
Martin	-	Nay	Speer	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

Studer	-	Nay	Wagner	-	Nay
Sullivan	-	Nay	Ward	-	Nay
Swanberg	-	Nay	Warden	-	Nay
Toole	-	Nay	Wilson	-	Nay
Van Buskirk	-	Nay	Woodmansey	-	Nay
Vermillion	-	Absent	Mr. Chairman	-	Nay

CLERK HANSON: Mr. Chairman, nine Delegates voting Aye, seventy-three voting No.

CHAIRMAN GRAYBILL: Nine Delegates having voted Aye and seventy-three voting No, the motion of Mr. Habedank is defeated. Now, the Chair is going to take a very dim view of people discussing issues who are not here, so I'm asking that the Delegates who are not here and if they're in the hearing of my voice, that they come in. We are going to get in the position of people discussing things that have been discussed. We are nearly through. I think we ought to sit through and finish this up and we have eighteen members absent, and if they don't want to vote, that's fine but then they'd better not come in and try to discuss, because I'm not going to recognize them. Now, the Chair also has another observation to make that I would hope everyone would listen to so we understand it because you may want to take action on it. Mr. Swanberg has raised the interesting point that this Convention could propose both a Constitution and some amendments to the old Constitution, and he has three times mentioned this and he

STATE PUBLISHING CO. HELENA, MONT.

just finished mentioning it, and it is -- it would be possible to propose amendments on these issues or, for that matter, on any of the other issues that we have put in the Constitution. The language of the Enabling Act and, for that matter, the language of the old Constitution is broad enough since it uses the words, may propose amendments -- is broad enough to authorize us to do that. We have not proceeded on that basis until now and we are on the ballot. The Chair is going to rule that the proposals that we are considering, these three different proposals, were proposals made for inclusion in the new Constitution, which is clearly the way we adopted them when we made them proposals. The Chair is going to rule that we have not, as a body, considered them as possible amendments to the old Constitution except as they are inclusions in the new Constitution, which, of course, replaces the old if it passes. Therefore, the Chair is going to rule out of order any proposal that these be considered amendments, and if you don't like that, then you may stand and make a motion to suspend the rules and if you can suspend the rules, we'll go back and consider these matters as amendments to the old Constitution, but until we have done that, we won't take any more time discussing the possibility of amendments other than the new Constitution we're considering. Now, Mr. Swanberg, that's how I think I have to solve your problem and you may make a motion to suspend the rules if you want to.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SWANBERG: Mr. President, I am in total agreement with the Chair. I have been giving this a lot of thought and I, too, agree that we are submitting a complete new ball game here to the public and that these three proposals that we have here, the unicameral-bicameral, the gambling issue and the death penalty, are being submitted to the electorate for a vote as possible alternates, but I submit the ballot itself is not quite clear on that point. I submit that the voter could look at that and say, well, I'm against the Constitution so I'll vote No, but, by golly, I'm for the death penalty, so I'm going to vote Yes down here, and there may be some confusion and a good deal of hard feelings if it turns out they were in error, so perhaps some kind of language ought to be in here to state clearly and explicitly that these proposals are to be voted on and will be the body of our law only in the event the new Constitution is passed. Whatever that language is, I don't know. I have a suggestion that the Chair has that has a sentence in it. Whether that's adequate or not is questionable. The sentence simply says: If you voted for the proposed Constitution, you may also vote on the following-proposals -- whether the following proposals should be included within it, and then there's the death penalty and gambling issues. That would clarify it, in my opinion.

CHAIRMAN GRAYBILL: All right, the Chair has before it some language from Mrs. Bates. Mrs. Bates, I don't know

STATE PUBLISHING CO. HELENA, MONT.

if this should be made an amendment or not but with your permission, the Chair will inquire of Mr. Schiltz and of some of the others and at least probe the possibility. The official ballot has instructions at the top -- place an (X) in the box, express your preference and the whole text is available for inspection. Now, it might be that we would be well advised to add language to the instructions which might say something like this -- this is Mrs. Bates' question: The Constitution will be ratified only if a majority of those voting in this election vote for the Constitution. If the Constitution receives a majority, each alternative below -- two, three and four -- must also receive the same majority. This would, of course, clear up Mr. Swanberg's point, the second sentence, saying that if the Constitution receives a majority, each of the alternatives below must also receive a majority, would clear up Mr. Swanberg's point that these are considered as an amendment. They would -- as an amendment to the old one. I don't know whether it's necessary to say that the Constitution will be ratified only if a majority of the voters vote, but it doesn't say that yet and the query that Mr. Berg has placed on Mrs. Bates' thing is, is this covered in transition? In the transition article? Now, I asked Mr. Schiltz to yield after thinking about that, or about whether we should add that to the instructions. In other words, should the instructions say the Constitution will be ratified only if a majority of

STATE PUBLISHING CO. HELENA, MONT.

those voting in this election vote for it, and, secondly, if it is ratified, then each alternative must also receive a majority. Mr. Schiltz, do you have any thoughts?

DELEGATE SCHILTZ: Well, Mr. Chairman, I would have to go through the transition schedule, but I don't think that's covered in the transition, though. There's no reason why it would be.

CHAIRMAN GRAYBILL: Or in the adoption?

DELEGATE SCHILTZ: No, it wouldn't be in there either.

CHAIRMAN GRAYBILL: Well, section one of the adoption schedule says, if approved by a majority of those voting.

DELEGATE SCHILTZ: That's right. There it is.

CHAIRMAN GRAYBILL: Would it be useful to add -- you know it isn't going to make much difference what's at the top of the ballot. It's going to be a little box of something there and would it be helpful to add sentences to the effect that a majority must vote before this Constitution is adopted and that if that happens, then the other three propositions must receive a majority? Would it be helpful to add that language at the top? Mr. Brown -- oh, you're just sitting down.

DELEGATE SCHILTZ: Mr. Chairman, I don't know. If it didn't -- what we have striven for is to stay away from too much language, as you can see. We thought we had the

STATE PUBLISHING CO. HELENA, MONT.

box pretty well tidied up and we had the top pretty limited. I wouldn't object, I guess, if it didn't add more stuff. One of the problems I had with Mr. Ask's proposal was that the instructions were so lengthy that I was afraid nobody would get to the vote. I don't know, I'd have to think about it more than I've thought about it now, Mr. Chairman.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman, I sent that up just for information up there, and wondered what you thought of it, but I feel that if we could put something like this, and maybe the Style and Drafting would want to work it over a little bit, on the top of the ballot, it would explain to the people a little better exactly what has to take place, and I would like to so move that for their consideration.

CHAIRMAN GRAYBILL: All right, I'll consider it moved or something like it moved. Now, the Chair has another question of the Style and Drafting Committee. I have been of the opinion that the material in the box was necessary because of the replacement of the bicameral by unicameral, and I'm still of that opinion, but one of the things we did with Mr Brown's language was say that unless a majority of those voting in this election voted for it, unicameral couldn't win. Have we ever said that unless a majority voting for three and four vote for it, they can't win, Mr. Schiltz? Or, are we in a position of getting a plurality for three-A? We all agree, I

STATE PUBLISHING CO. HELENA, MONT.

think, that that won't do it.

DELEGATE SCHILTZ: Mr. Chairman, if that's a problem, we ought to put something up there like Mrs. Bates' material. We took the position, as you can see from the other ballots we proposed, that we didn't think it was necessary to put any of this in, but then when the question was raised, we decided that it was essential thatwe have it in insofar as the legislature was concerned because we couldn't do without a legislature, and we thought if we put something similar in each of the other ones, we were going to clutter the whole thing up so bad that it would be almost unintelligible. You can almost say by inference that three and four must have the same kind of vote on them, but maybe if there's a problem there we could slip a couple of words in to satisfy Mrs. Bates' thoughts. I would like to have about two minutes to style that and get it into about seven or eight words, if I could.

CHAIRMAN GRAYBILL: What if it said, the Constitution and any of the alternatives listed below will be ratified only if a majority of those voting in this election vote for them. It seems to me that we will need some such language, Mr. Schiltz.

DELEGATE SCHILTZ: Well, I think you could say, a majority of those voting in this election is necessary to carry all issues.

CHAIRMAN GRAYBILL: All right, let's write that

STATE PUBLISHING CO. HELENA, MONT.

down. Let's see where that takes us. A majority of those voting in this election is necessary to carry -- is that what you want to say? -- the Constitution or other issues -- to approve the Constitution or -- all right, adopt the Constitution or any of the alternatives listed below.

DELEGATE SCHILTZ: I am more satisfied with what I said. When we get up there in that room with no windows, we would have crossed out most of what you added to what I said.

CHAIRMAN GRAYBILL: I don't think I had it. A majority of those voting in this election is necessary to carry the Constitution or any of the alternatives listed below.

DELEGATE SCHILTZ: I just said, all issues, which is about fourteen --

CHAIRMAN GRAYBILL: I see, to carry all issues -- but that to me, Mr. Schiltz, implies that a majority of those voting is necessary -- but a majority on one certainly doesn't carry all issues. I think you've got to say any issue.

DELEGATE SCHILTZ: How about all four issues?

CHAIRMAN GRAYBILL: Or, how about any issue.

DELEGATE SCHILTZ: All right, or any issue.

CHAIRMAN GRAYBILL: How about, is necessary to adopt any issue.

DELEGATE SCHILTZ: Well, now, I'd have to go back in and see what the wording is on adoption, whether the vote

STATE PUBLISHING CO. HELENA, MONT.

constitutes an adoption --

CHAIRMAN GRAYBILL: All right, do you want to use carry?

DELEGATE SCHILTZ: I think it's plain enough and clear enough.

CHAIRMAN GRAYBILL: A majority of those voting in this election is necessary to carry any issue.

DELEGATE SCHILTZ: That would satisfy me and I think inform the voters.

CHAIRMAN GRAYBILL: Now, Mrs. Bates, that does precisely -- Mrs. Bates would withdraw hers and allow Mr. Schiltz to move that. Do you want to move that as part of the instructions, Mr. Schiltz?

DELEGATE SCHILTZ: I would move that that be placed at the top as a new sentence on the instructions we have now.

CHAIRMAN GRAYBILL: Is there -- all right, Mr. Schiltz moves that we add as a sentence in the instructions the following: A majority of those voting in this election is necessary to carry any issue. Is there discussion?

Mrs. Eck.

DELEGATE ECK: Mr. Chairman, I can see this as being misleading because if a majority vote for one of the alternates down below and don't vote for the Constitution, it is not enough to carry them. I think almost you would have to add something like alternates two and three and four cannot

STATE PUBLISHING CO. HELENA, MONT.

carry unless the Constitution is ratified. I don't think that's the way it wants to be said.

CHAIRMAN GRAYBILL: How about, to carry the Constitution or any sub issue? Does the word, sub, help?

DELEGATE ECK: No, I don't think it does because the sub issues can only carry if the Constitution does.

CHAIRMAN GRAYBILL: Right, but doesn't sub imply that? Mr. Loendorf, have you got a little help?

DELEGATE LOENDORF: Would you read the language, Mr. Chairman?

CHAIRMAN GRAYBILL: The last one or Mr. --

DELEGATE LOENDORF: The whole sentence.

CHAIRMAN GRAYBILL: A majority of those voting in this election is necessary to carry any issue.

DELEGATE LOENDORF: I think you have solved Mrs. Eck's problem then because you have used the words, in this election, which indicate that the majority has to be a majority voting in the election, not on any separate issue.

CHAIRMAN GRAYBILL: No, but her point is that a majority might vote for the death penalty part and not for the Constitution and it doesn't carry the issue.

DELEGATE LOENDORF: That's right.

CHAIRMAN GRAYBILL: A majority of those voting in this election is necessary to carry the Constitution and also -- let's see -- and each alternative must -- let's see. All

STATE PUBLISHING CO. HELENA, MONT.

right, I think I've got it. What do we call them? It's a little long for Mr. Schiltz. Now, you might be able to work with this, Mr. Schiltz. A majority of those voting in this election is necessary to carry the Constitution. In addition, each alternative must receive such a majority to carry. Where is Mr. Brown? He's our expert on this. Mr. Berg, I'm sorry, I haven't been looking.

DELEGATE BERG: I only wanted to suggest that instead of the word, carry, you use the word, approve, because that's the word that's used in section eight of article nineteen.

CHAIRMAN GRAYBILL: That's easy. It's all this other --

DELEGATE BERG: And I was going to suggest on the other one, or any issue listed below.

CHAIRMAN GRAYBILL: But, Mrs. Eck's point is, an issue can receive a majority and not be carried unless a majority carries the Constitution, too. Well, maybe if you say and.

Mr. Loendorf.

DELEGATE LOENDORF: Mr. Chairman, we can't make law in that sentence. It constitutes instructions to the voters. Therefore, I would just leave it as you first proposed it.

CHAIRMAN GRAYBILL: A majority of those voting in this election is necessary to carry any issue?

DELEGATE LOENDORF: Yes.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Which implies that something else may be necessary, too, but at least a majority is.

Mr. Murray.

DELEGATE MURRAY: Mr. Chairman, I think all of us are going to have to go home and do just what every trial lawyer does when he presents his case to a jury. When he has a written verdict in his hand and he asks that jury to go in and reach a decision, he's going to have to explain this ballot and I don't see any reason to carry on this debate in an attempt to do all of these things or we'll be here forever. I think those instructions are clear and they are plain and I think we ought to end with them just as they are.

CHAIRMAN GRAYBILL: The instructions -- the only thing that's concerning us, Mr. Murray, there is nothing in the ballot now that says that three and four have to have this majority, and what's going to happen is, or what could happen is that forty-nine percent could vote for the gamblers and forty-seven against and the gamblers are going to think they won, and they're not going to win and we're not going to have told them that, but I'm sure that that isn't going to change the law, but maybe to be fair, maybe we ought to tell them they have to have a majority.

Mr. Murray.

DELEGATE MURRAY: What I am trying to say to you is that we are going to advise the gamblers about that before

STATE PUBLISHING CO. HELENA, MONT.

they ever get into the poll booth.

CHAIRMAN GRAYBILL: Mr. Swanberg.

DELEGATE SWANBERG: Mr. President, I think we are overlooking a good opportunity here to do a little free advertising on the ballot, and I think we'd better take advantage of every opportunity we have to do this, and instead of putting it up on top in instructions to voters, I think this, too, should be in a box and I think it should be said loud and clear in that box that the following two proposals shall be ineffective, or words to this effect, unless the proposed Constitution is passed, so those who want this gambling or whatever it is that they want will make darned sure that they vote for the Constitution in the first instance; otherwise, their activity is idle. Let's put it down there where they can be readily seen by all those who vote, and I think we'll get a lot of votes that way.

CHAIRMAN GRAYBILL: In other words, you'd put a box in after one and say: If the Constitution receives a majority of votes, the following propositions can be adopted by a majority.

DELEGATE SWANBERG: Even stronger than that. I mean, it's just a good -- sort of a neon sign there it seems to me, to get a little advertising.

CHAIRMAN GRAYBILL: Mr. Swanberg has suggested that after the first ballot, we put in a box that says: If the

STATE PUBLISHING CO. HELENA, MONT.

Constitution receives a majority of votes in this election, the following propositions may be adopted by a majority of votes in this election.

DELEGATE SCHILTZ: Mr. Chairman, I'll do whatever this committee votes to do. I have stated my feelings. I am in accord with Mr. Murray. I don't think it's necessary. We are doing all sorts of brochures and one thing and another and we've got the newspapers full of this fifty percent plus one business. If they don't know now, they're never going to know. I don't see any reason to add another comma or period or anything else to this ballot as we have it right at this minute, but I'll do whatever --

CHAIRMAN GRAYBILL: And you -- well, I'll hear Mrs. Eck.

DELEGATE ECK: Mr. Chairman, I'm inclined to agree with Mr. Schiltz, but I do have another wording here which might do what we want and also give us a little free advertising on the ballot. It would say: Each issue listed below, or however you want to define them, requires a majority vote of those voting in this election, as well as a majority vote approving the proposed Constitution.

CHAIRMAN GRAYBILL: Each issue listed below requires a majority vote --

DELEGATE ECK: Of those voting in this election, as well as a majority vote --

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: -- in this election --

DELEGATE ECK: Yes.

CHAIRMAN GRAYBILL: -- as well as a majority vote --

DELEGATE ECK: Approving the proposed Constitution.

CHAIRMAN GRAYBILL: -- majority vote for the proposed Constitution?

DELEGATE ECK: For the proposed Constitution, will do just as well.

CHAIRMAN GRAYBILL: Mrs. Eck, will you move that?

DELEGATE ECK: Mr. Chairman, I move that this be added to the instructions at the top of the ballot.

CHAIRMAN GRAYBILL: Mr. Schiltz, do you want to withdraw yours?

DELEGATE SCHILTZ: No, I don't.

CHAIRMAN GRAYBILL: You don't want to withdraw the one that says: A majority of those voting in this election is necessary to carry any issue?

DELEGATE SCHILTZ: Well, I --

CHAIRMAN GRAYBILL: Well, all right, leave it in there. Mrs. Eck will amend it and if she fails, you're up. I feel like a Keno man making book.

(Laughter)

CHAIRMAN GRAYBILL: All right, the issue now is Mrs. Eck's motion that we add to the instructions a sentence saying: Each issue below requires a majority vote of those voting in

STATE PUBLISHING CO. HELENA, MONT.

this election, as well as a majority vote for the proposed Constitution. Is there discussion?

Mr. Anderson.

DELEGATE OSCAR ANDERSON: Well, I understand there's three issues in here that don't require a majority vote in order to be placed in the Constitution.

CHAIRMAN GRAYBILL: No, you're not right about that, Oscar. There's not even two. There's none that don't require a majority vote.

Mrs. Bates.

DELEGATE BATES: Mr. Chairman, since we have been discussing this, I think we have the sense of the group and that Style and Drafting could handle this sentence, the structure of this sentence and maybe we just decide whether we want a short explanation of this type and let them really handle the wording.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: The time has rapidly come and has now arrived when Style and Drafting can no longer do anything because we go to the printers tomorrow morning.

CHAIRMAN GRAYBILL: Well, Mr. Schiltz, we don't go to the printers until this is done.

DELEGATE SCHILTZ: Well, that's true enough.

CHAIRMAN GRAYBILL: So, don't worry about the printer. I mean, we're going to write the Constitution. Don't

STATE PUBLISHING CO. HELENA, MONT.

worry about the printer.

DELEGATE SCHILTZ: That's true enough, except that we can't have a committee meeting tomorrow morning and redo all this and still it to the printers.

CHAIRMAN GRAYBILL: Right.

Mr. Mahoney.

DELEGATE MAHONEY: Mr. Chairman, I have listened with a great deal of interest here this afternoon and I think there that we are indicting the educators around here. We have spent millions and millions of dollars in this state to educate these people to understand, and to me this is very plain, and I don't know as though we've got to get it down here so plain that -- now, I think we could stop. I like this original proposition. It looks good and we talk about it and let's don't indict the educators.

CHAIRMAN GRAYBILL: Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I agree with Mr. Mahoney. Being an educator, let's get on and vote with this thing. I'm happy with the language that's in here.

CHAIRMAN GRAYBILL: All right, now, the Chair does have Mr. Schiltz and Mrs. Eck up. Do you want to vote on that, Mrs. Eck?

DELEGATE ECK: (Inaudible. Microphone not turned on.)

CHAIRMAN GRAYBILL: Very well, the issue is on Mrs.

STATE PUBLISHING CO. HELENA, MONT.

Eck's language to add into the instructions a sentence saying: Each issue below requires a majority vote of those voting in this election, as well as a majority vote of the proposed Constitution. All in favor vote Aye and opposed vote No. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, take the ballot.

Mr. Berg, for what purpose do you rise?

DELEGATE BERG: Berg votes No.

CHAIRMAN GRAYBILL: Berg votes No.

Aasheim	-	Nay	Berg	-	Nay
Anderson, J. H.	-	Nay	Berthelson	-	Nay
Anderson, O.	-	Nay	Blaylock	-	Nay
Arbanas	-	Aye	Blend	-	Nay
Arness	-	Nay	Bowman	-	Nay
Aronow	-	Nay	Brazier	-	Nay
Artz	-	Nay	Brown	-	Nay
Ask	-	Nay	Bugbee	-	Aye
Babcock	-	Nay	Burkhardt	-	Nay
Barnard	-	Nay	Cain	-	Nay
Bates	-	Aye	Campbell	-	Excused
Belcher	-	Nay	Cate	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

1	Champoux	-	Nay	Heliker	-	Aye
2	Choate	-	Nay	Holland	-	Absent
3	Conover	-	Nay	Jacobsen	-	Aye
4	Cross	-	Nay	James	-	Absent
5	Dahood	-	Nay	Johnson	-	Nay
6	Davis	-	Absent	Joyce	-	Aye
7	Delaney	-	Nay	Kamhoot	-	Nay
8	Driscoll	-	Aye	Kelleher	-	Absent
9	Drum	-	Absent	Leuthold	-	Nay
10	Eck	-	Aye	Loendorf	-	Nay
11	Erdmann	-	Nay	Lorello	-	Absent
12	Eskildsen	-	Nay	Mahoney	-	Nay
13	Etchart	-	Nay	Mansfield	-	Absent
14	Felt	-	Absent	Martin	-	Nay
15	Foster	-	Nay	McCarvel	-	Nay
16	Furlong	-	Nay	McDonough	-	Nay
17	Garlington	-	Nay	McKeon	-	Absent
18	Gysler	-	Nay	McNeil	-	Absent
19	Habedank	-	Aye	Melvin	-	Nay
20	Hanson, R. S.	-	Nay	Monroe	-	Absent
21	Hanson, R.	-	Nay	Murray	-	Nay
22	Harbaugh	-	Absent	Noble	-	Nay
23	Harlow	-	Nay	Nutting	-	Nay
24	Harper	-	Absent	Payne	-	Nay
25	Harrington	-	Nay	Pemberton	-	Nay

STATE PUBLISHING CO. HELENA, MONT. 3

Rebal	-	Nay	Speer	-	Nay
Reichert	-	Aye	Studer	-	Nay
Robinson	-	Nay	Sullivan	-	Nay
Roeder	-	Nay	Swanberg	-	Aye
Rollins	-	Nay	Toole	-	Aye
Romney	-	Aye	Van Buskirk	-	Absent
Rygg	-	Aye	Vermillion	-	Absent
Scanlin	-	Nay	Wagner	-	Nay
Schiltz	-	Nay	Ward	-	Nay
Siderius	-	Nay	Warden	-	Nay
Simon	-	Nay	Wilson	-	Nay
Skari	-	Nay	Woodmansey	-	Nay
Sparks	-	Absent	Mr. Chairman	-	Aye

CLERK HANSON: Mr. Chairman, sixteen Delegates voting Aye, sixty-six voting No.

(The official roll call shows 15 Aye, 67 Nay, 1 Excused, 17 Absent, and is correctly reported in the preceding roll call tabulation.)

CHAIRMAN GRAYBILL: Sixty-six having voted No, Mrs. Eck's motion is defeated. Mr. Schiltz, do you want yours withdrawn or do you want it put?

DELEGATE SCHILTZ: I will withdraw mine.

CHAIRMAN GRAYBILL: All right, it's withdrawn.

Mr. Swanberg.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SWANBERG: Mr. President, as the ballot stands now, it is not clear in my opinion, under items two and three, that a person who votes, for example, for allowing the legislature to authorize gambling -- it's not going to be clear to him, if he votes for it, what the situation is. I submit we have a golden opportunity to pick up a lot of votes here simply by putting after item two a box, another box, and in that box something like this could be stated: If you voted for the proposed Constitution above, you may also vote on whether the following proposals should be included within it. And that would be a clear and distinct statement to all those who vote on the gambling issue that they'd better vote for the Constitution up above if they want to change the gambling picture in Montana. I submit we'd pick up an awful lot of votes just by that simple tactic. All those who had a strong feeling about the death penalty likewise would look at that box and say, well, I'd better vote for the Constitution if I want to abolish the death penalty in Montana, and in that way, I think we would strengthen our hand immeasurably; whether you are for or against gambling or the death penalty is beside the point here, so I would move, then, that after paragraph two, the language I just read to you and which you have on your desks be included in a box within it.

CHAIRMAN GRAYBILL: Very well. Now, Mr. Swanberg, I didn't get your exact language but I got this. If the Con-

STATE PUBLISHING CO. HELENA, MONT.

stitution receives a -- for a box after two -- if the Constitution receives a majority of those voting, the following proposals may be approved by a majority of those voting at this election. Now, the Chair is aware of how impatient you all are, but the Chair has some sympathy for this because there is nothing on this ballot that explains that it takes a majority vote on three and four. Now, you can go without it, but it does not now explain that and it is, in fact, necessary and Mr. Anderson just pointed out he was not clear on that himself, so we have nothing there yet, and you can vote this down but until -- but it won't then be explained. Mr. Swanberg, is that language sufficient for you? If the Constitution receives a majority of those voting, the following proposals may be approved by a majority of those voting at this election.

DELEGATE SWANBERG: Mr. President, I'm not an ad writer. What we are writing here is a good ad. The language you have put in is O.K. I would suggest we put something in and we go over this ballot again and we can correct it again if we need be, but it just seems to me there's a golden opportunity here to pick up a lot of votes and I'd like to take advantage of it, as well as clarify the situation. Those who vote No down here -- well, strike that. Let it go. It's too complicated.

CHAIRMAN GRAYBILL: All right, well, I've got some language here that will do it. I don't know if it's good

STATE PUBLISHING CO. HELENA, MONT.

enough but it can be amended.

Mr. Ask.

DELEGATE ASK: Mr. Chairman, could I move a substitute motion? In the instructions, I think all we have to say in instructions is just one line to say: If the vote on the proposed Constitution fails, all alternative issues also fail, period, and that should explain it. That would just be in the instructions.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: Mr. Chairman, members of the committee, I think Mr. Ask, in about one half of a sentence, has taken care of the whole thing. That would be fine, I think.

CHAIRMAN GRAYBILL: Mr. Ask, are you saying that if the proposed Constitution fails to receive a majority of the votes cast, the alternative proposals also fail?

Mr. Swanberg.

DELEGATE SWANBERG: Let's think positively here. Let's not use the word fail anywhere in this ballot, and here we have the word fail used twice, and I submit the language which the Chair just read puts it in positive terms and is far to be preferred.

CHAIRMAN GRAYBILL: Mrs. Bates.

DELEGATE BATES: Mr. Chairman, that sounded very good to start out with but actually all these things don't

STATE PUBLISHING CO. HELENA, MONT.

fail because we are going to have one or the other, bicameral or unicameral.

CHAIRMAN GRAYBILL: No.

DELEGATE BATES: We've got in the old Constitution gambling.

CHAIRMAN GRAYBILL: Mrs. Bates, the propositions here fail if the first one doesn't pass.

DELEGATE BATES: (Inaudible. Microphone not turned on.) -- propositions. But, we have two votes --

CHAIRMAN GRAYBILL: All right, well, we've got a clear cut issue here between Mr. Ask's and Mr. Swanberg's and Mr. Ask has got the substitute motion and the issue is -- Mr. Ask says in the instructions: If the proposed Constitution fails to receive a majority of the votes cast, the alternative proposals also fail. And, Mr. Swanberg, if you want to put it positively, has a box after the second paragraph, second ballot, that says: If the Constitution receives a majority of those voting at this election, the following proposals three and four may be approved by a majority of those voting. Now, the issue is on Mr. Ask's. I take it you are ready for the vote. All in favor -- a roll call vote -- vote Aye if you are in favor of Mr. Ask's, and vote No if you're not. Has every Delegate voted?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate wish to change

STATE PUBLISHING CO. HELENA, MONT.

his vote?

(No response)

CHAIRMAN GRAYBILL: Does any Delegate want to change his vote?

(No response)

CHAIRMAN GRAYBILL: Very well, cast the ballot.

Aasheim	-	Aye	Bugbee	-	Aye
Anderson, J. H.	-	Aye	Burkhardt	-	Aye
Anderson, O.	-	Aye	Cain	-	Aye
Arbanas	-	Aye	Campbell	-	Excused
Arness	-	Aye	Cate	-	Absent
Aronow	-	Aye	Champoux	-	Aye
Artz	-	Aye	Choate	-	Aye
Ask	-	Aye	Conover	-	Aye
Babcock	-	Aye	Cross	-	Aye
Barnard	-	Aye	Dahood	-	Nay
Bates	-	Absent	Davis	-	Nay
Belcher	-	Aye	Delaney	-	Nay
Berg	-	Nay	Driscoll	-	Nay
Berthelson	-	Nay	Drum	-	Absent
Blaylock	-	Aye	Eck	-	Aye
Blend	-	Aye	Erdmann	-	Aye
Bowman	-	Aye	Eskildsen	-	Aye
Brazier	-	Aye	Etchart	-	Aye
Brown	-	Absent	Felt	-	Absent

STATE PUBLISHING CO. HELENA, MONT.

Foster	-	Aye	McCarvel	-	Nay
Furlong	-	Aye	McDonough	-	Nay
Garlington	-	Aye	McKeon	-	Absent
Gysler	-	Aye	McNeil	-	Nay
Habedank	-	Nay	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Absent
Hanson, R.	-	Nay	Murray	-	Aye
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Nay	Nutting	-	Aye
Harper	-	Nay	Payne	-	Aye
Harrington	-	Aye	Pemberton	-	Aye
Heliker	-	Nay	Rebal	-	Aye
Holland	-	Absent	Reichert	-	Aye
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Nay
Joyce	-	Aye	Romney	-	Nay
Kamhoot	-	Aye	Rygg	-	Nay
Kelleher	-	Absent	Scanlin	-	Nay
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Nay	Siderius	-	Aye
Lorello	-	Absent	Simon	-	Aye
Mahoney	-	Nay	Skari	-	Aye
Mansfield	-	Aye	Sparks	-	Aye
Martin	-	Nay	Speer	-	Nay

STATE PUBLISHING CO. HELENA, MONT.

Studer	-	Aye	Wagner	-	Aye
Sullivan	-	Nay	Ward	-	Nay
Swanberg	-	Nay	Warden	-	Absent
Toole	-	Aye	Wilson	-	Nay
Van Buskirk	-	Nay	Woodmansey	-	Aye
Vermillion	-	Absent	Mr. President	-	Aye

CLERK HANSON: Mr. Chairman, sixty Delegates voting Aye, twenty-seven voting No.

CHAIRMAN GRAYBILL: Sixty having voted Aye and twenty-seven having voted No, Mr. Ask's motion is presumed by the Chair to have passed and will be added to the instructions. Mr. Swanberg, since it does essentially the same thing in a negative manner as yours, the Chair rules that yours is lost by that. Now, Mr. Schiltz, do you want to move that when this committee does arise and report, after having had under consideration the ballot proposed by the Style and Drafting Committee, that we recommend the same be adopted?

DELEGATE SCHILTZ: I make that motion, Mr. Chairman, as amended.

CHAIRMAN GRAYBILL: As amended. All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: It's adopted as amended. Now,

STATE PUBLISHING CO. HELENA, MONT.

members of the body, we have before us -- we'll set that aside on general orders before reporting, and on general orders in committee of the whole, if you'll turn to article three on General Government, in the proposal given to you by the Style and Drafting Committee this morning, the final report of the Style and Drafting Committee, turn to article three on page eleven and, in fact, turn to article three on page thirteen, and it will now be necessary to fit our ballot that Mr. Schiltz moved, that the first section nine be deleted and the second section nine be left in. Isn't that correct, Mr. Schiltz?

DELEGATE SCHILTZ: That's correct, Mr. Chairman.

CHAIRMAN GRAYBILL: All right, the issue then is on -- would you make a motion that the first section nine be deleted, Mr. Schiltz?

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does rise and report, after having had under consideration article three, General Government, Style and Drafting Committee final report, that the first section nine, being lines twelve through fifteen be deleted and that the article be adopted as amended.

CHAIRMAN GRAYBILL: Well, the Chair will strike the last part of your thing. I'm going to make two motions out of it. I want to adopt it after it is deleted. So, we're just voting on the deletion. Does anyone want a roll call vote?

STATE PUBLISHING CO. HELENA, MONT.

(No response)

CHAIRMAN GRAYBILL: Very well, all in favor of deleting the first section nine say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: It's approved. Now, will you put --

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article three, General Government, Style and Drafting final report, that it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: The motion is to adopt for style and drafting article three as amended. All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's so ordered. Now, if you will turn to article five on page fifteen --

DELEGATE SCHILTZ: Fifteen to twenty-two.

CHAIRMAN GRAYBILL: -- to twenty-two, the ballot will require that the language on page fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two

STATE PUBLISHING CO. HELENA, MONT.

be deleted and the language in the second legislative article which is the bicameral article remain in the Constitution.

DELEGATE SCHILTZ: I make that motion, Mr. Chairman.

CHAIRMAN GRAYBILL: The motion has been made that we delete the unicameral section of the legislative article five, being pages fifteen to twenty-two in the final report of Style and Drafting. All in favor of that motion, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: All opposed?

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it and it's deleted.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration article five, The Legislature, Style and Drafting Committee's final report, that it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: Very well, you are now voting that pages twenty-three through twenty-eight, being the bicameral form of legislature -- Legislative article -- be left in the Constitution. So many as are in favor of article five for style and drafting, bicameral, pages twenty-three through twenty-eight, vote Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Ayes have it and it's adopted.

DELEGATE SCHILTZ: Mr. Chairman, did you want to do third reading on those now.

CHAIRMAN GRAYBILL: Well, we want to move to section five -- to five, yes -- but I'm not sure we want to do that before we go to -- I think we need to go to your adoption schedule. Is it revised, or is it good any more?

DELEGATE SCHILTZ: The revised adoption schedule works, yes.

CHAIRMAN GRAYBILL: Very well, members of the body, if you'll turn to the revised adoption schedule. It's page -- two pages long. I think the Clerk had better read it and we had better read along. Will the Clerk please read the revised adoption schedule on general orders, Committee of the Whole. Don't read the word, revised. Just start with the word, adoption.

CLERK HANSON: (Reading) Adoption Schedule. These schedule provisions are part of this Constitution only for the limited purposes of determining whether this Constitution has been adopted, determining what changes result from the vote on each of the separately submitted issues, and establishing the general effective date of this Constitution. No provision of this schedule shall be published unless it becomes part of the

STATE PUBLISHING CO. HELENA, MONT.

Constitution as the result of the adoption of a separately submitted provision. Section one. This Constitution, if approved by a majority of those voting at the election as provided by the Constitution of 1889, shall take effect on July first, 1973, except as otherwise provided in sections one and two of the transition schedule. The Constitution of 1889, as amended, shall thereafter be of no effect. Section two, subsection one. If separate issue two-A concerning the unicameral form of the legislature is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then: sub-subsection (a), article five, The Legislature, shall be deleted and the following substituted therefor: Insert unicameral article in full here. Sub-subsection (b). The words, of each house, are deleted from subsection two of section six and from section eight, article eight, Revenue and Finance. Sub-subsection (c). The word, legislature, is substituted for senate in subsections one, two and four of section eight, article six, The Executive, and in subsections one and two of section eight, article seven, The Judiciary. Subsection two. If separate issue two-B concerning the bicameral form of the legislature is approved by the electors and if the proposed Constitution is approved by the electors, then article five, The Legislature, shall be retained. Section three, subsection one. If separate issue three-A is approved by a majority of those voting at the election and if the proposed Con-

STATE PUBLISHING CO. HELENA, MONT.

stitution is approved by the electors, then section nine of article three, General Government, shall be retained. Subsection two. If separate issue three-B is approved by the electors and if the proposed Constitution is approved by the electors, then section nine shall be deleted from article three, General Government, and the following substituted therefor: (quote) Section nine, Gambling. All forms of gambling, lotteries, and gift enterprises are prohibited (end quote). Section four. If separate issue four-B is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then there shall be added to section twenty-eight, article two, Declaration of Rights, the following sentence: (quote) Death shall not be prescribed as a penalty for any crime against the state (end quote). And there shall be deleted from section twenty-one of the same article the following: (quote) comma, except for capital offenses, when the proof is evident or the presumption great (end quote). (End reading)

Mr. Chairman, the adoption schedule.

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I move to amend -- we don't have numbered paper here, so --

CHAIRMAN GRAYBILL: Section three on page two.

DELEGATE SCHILTZ: Section three, sub two, on page

STATE PUBLISHING CO. HELENA, MONT.

two, by deleting the words, nine, Gambling. All forms of gambling, lotteries, and gift enterprises are prohibited, and inserting in lieu thereof, the words on page thirteen of Style and Drafting report, which are lines sixteen and -- no,

CHAIRMAN GRAYBILL: What's --

DELEGATE SCHILTZ: Section nine -- well, it would be lines twelve through fifteen on page thirteen of Style and Drafting's report.

CHAIRMAN GRAYBILL: What does it say? Except, what?

DELEGATE SCHILTZ: It says: Section nine, period. Gambling, period. All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum.

CHAIRMAN GRAYBILL: Unless authorized by acts of the legislature or the people -- by what? -- initiative or referendum. Or the people by what?

DELEGATE SCHILTZ: Well, it -- let's see -- unless prohibited -- unless authorized by acts of the legislature or by the people through initiative or referendum.

CHAIRMAN GRAYBILL: All right, this change is necessary because of what we did in voting for Mr. Harper's amendment.

DELEGATE SCHILTZ: Right.

CHAIRMAN GRAYBILL: And, I'd like you to also move

STATE PUBLISHING CO. HELENA, MONT.

-- you see, it's now going to be separate item three-A that they must vote for, so up on line -- up on line -- the top line there of sub two -- if separate issue three-A is approved -- because three-A will be for allowing the people, right?

DELEGATE SCHILTZ: Well, now, I'll have to think about that a minute.

CHAIRMAN GRAYBILL: Three-B is against.

DELEGATE SCHILTZ: Yes, that's right.

CHAIRMAN GRAYBILL: So, the line has to be: If separate issue three-A is approved by the electors, then you put in this larger language that you have just read.

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: All right. Now, does everyone understand the change?

DELEGATE SCHILTZ: Mr. Chairman, I would like to make another amendment. At the top of that page, after the words, The Judiciary, and we have a subsection two --

CHAIRMAN GRAYBILL: Right.

DELEGATE SCHILTZ: -- we say: If separate issue two-B concerning the bicameral form of the legislature is approved by the electors --

CHAIRMAN GRAYBILL: Wait a minute, Mr. Schiltz. I am going to take these one at a time. People have to know what they're doing here.

DELEGATE SCHILTZ: Oh, I'm sorry.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Now, we are on sub two, section three, sub two, in the middle of the second page, and it will read: If separate issue three-A is approved -- and it will go on -- and instead of the quoted language it will have the longer quoted language which is, all forms of gambling, and so forth, are prohibited unless authorized by the legislature or by the people by initiative -- through initiative or referendum -- the longer language. Now, does everyone understand that we have to change that because of the Harper amendment. All right, are you ready to vote on that. Do we need to discuss that, Mr. Harper?

DELEGATE HARPER: No. Do you want also at this time, are you going to put subsection one of section three separately? Doesn't the three-A need to be changed to three-B. In other words --

CHAIRMAN GRAYBILL: Where? Where are you?

DELEGATE HARPER: In the one you just read, subsection two of section three, you changed three-B to three-A. Now, you need to change three-A to three-B in the paragraph just above it, if you want to do that now or -- I just call it to your attention.

CHAIRMAN GRAYBILL: I see it. Yes, that's not to be three-B. So, on line -- up there where it says section three, number one, it will say: If separate issue three-B.

Mr. Davis.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE DAVIS: Mr. President, I'm wondering about that. It seems like the way the Constitution now reads, if you don't get a majority for or against gambling -- in other words, if you don't get your fifty percent plus one, then separate three-A still stays in, regardless of whether it's approved by a majority. So, wouldn't the language be all right if you put in section three-one: If separate issue three-A is not approved by a majority of those voting at the election and if the proposed Constitution is approved, then section nine, article three, shall be retained. Similarly up onder your Judiciary.

CHAIRMAN GRAYBILL: I think, Mr. Davis -- you see, what you're doing is, you have to cover three-B somewhere and you're not covering three-B at all, and if three-B is approved by a majority, then the section nine that we just put in stays.

DELEGATE DAVIS: But, if three-B isn't approved by a majority --

CHAIRMAN GRAYBILL: Then it stays anyway.

DELEGATE DAVIS: Yes, it stays anyway.

CHAIRMAN GRAYBILL: Right.

DELEGATE DAVIS: Right. If the other one doesn't. All right.

CHAIRMAN GRAYBILL: All right. Now, these amendments changing three-A to three-B and changing three-B to three-A, and adding the extra language on the section nine

STATE PUBLISHING CO. HELENA, MONT.

that would substitute are all that's necessary to effectuate Mr. Harper's amendment.

Mr. McDonough.

DELEGATE McDONOUGH: Mr. Chairman, I don't think we really need section three, subsection one, under these circumstances.

CHAIRMAN GRAYBILL: Well --

DELEGATE McDONOUGH: Because then you're saying if three-B is approved by a majority of the vote it's retained. Well, it's retained anyway whether or not --

CHAIRMAN GRAYBILL: Well, that's right but it also is true if it's in there and it explains what happens to three-B, and the same is true on the page before on this other one, so --

Mr. Schiltz.

DELEGATE SCHILTZ: I would agree with Mr. McDonough. I was going to make a motion -- you see, they're both in the Constitution and if the Constitution is approved --

CHAIRMAN GRAYBILL: All right. Do you want to strike section three, sub one, and restyle two, sub one?

DELEGATE SCHILTZ: No, not altogether. I would strike the first line and three-fourths so we make a capital (I) on the if, so it would read: If the proposed Constitution is approved by the electors, then section nine of article three, General Government, shall be retained.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: All right. Now, this still has the effect of effectuating the Harper amendment, right?

DELEGATE SCHILTZ: That's right.

CHAIRMAN GRAYBILL: All right, we'll allow that amendment so that one now becomes: If the proposed Constitution is approved, then section nine -- and so forth -- shall be retained. Two will read: If separate issue three-A, with this other language. Now, with all of those amendments in there, is everybody happy?

(No response)

CHAIRMAN GRAYBILL: I'd like a motion approving this part for style, section three.

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration section three of the adoption schedule, it recommend the same be adopted as amended.

CHAIRMAN GRAYBILL: All in favor of approving section three as to style, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: So ordered. All right.

DELEGATE SCHILTZ: Mr. Chairman, for the same reason on the first line and three-fourths of this same page: If separate issue two-B concerning the bicameral form of the

STATE PUBLISHING CO. HELENA, MONT.

legislature is approved by the electors and -- I would ask that that be struck and that a capital (I), If, be inserted -- then we continue on with a capital (I), If.

CHAIRMAN GRAYBILL: All right. All in favor of amending the top of page two, sub two, so that it says: Sub two. If the proposed Constitution is approved by the electors, then article four, Legislature, shall be retained. All in favor of that say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Just a minute --

Mr. Driscoll.

DELEGATE DRISCOLL: Mr. Chairman, I'm confused. A little more confused than I usually am. It seems to me that what we have just done in section three, when we state: If the proposed Constitution is approved by the electors, then section nine of article three, General Government, shall be retained --

CHAIRMAN GRAYBILL: Yes, that's wrong, isn't it? You're right, that's wrong. We finally got Mr. McDonough because, Mr. McDonough --

DELEGATE McDONOUGH: No, you haven't because I moved to delete the whole section.

CHAIRMAN GRAYBILL: Oh, I guess we've got Mr. Schiltz again.

DELEGATE SCHILTZ: You got me again, but --

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: Well, it still seems to me that if you put if separate issue three-B is not approved by a majority of the voting, and if the Constitution is approved, then nine stays in.

DELEGATE SCHILTZ: Well, that's what I think, Mr. Chairman.

DELEGATE DAVIS: And, I think you do the same thing on the Judiciary. If the unicameral is not approved then the other stays in. In other words, just change the top of the page under Judiciary, too: If separate issue two-A concerning the unicameral form of the legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then article five, The Legislature, shall be retained. And under section three, one, if separate issue three-B is not approved by the majority of those voting at the election and if the proposed Constitution is approved by the electors, then section nine stays in.

CHAIRMAN GRAYBILL: All right, Mr. Davis, do you agree with me that we should have just changed it to three-B in section three?

DELEGATE DAVIS: To three-B and after is, add a not -- if three-B is not approved.

CHAIRMAN GRAYBILL: Oh.

DELEGATE DAVIS: Well, where are we now? Which

STATE PUBLISHING CO. HELENA, MONT.

is the --? All right, on section two, now, it's a separate issue is three-A, is that the separate issue? All right, then if you leave the first part -- If separate issue three-A is not approved, then you leave it in, and if it is approved in number two, then you take it out and make the substitution. Does that make sense or not?

CHAIRMAN GRAYBILL: I think you can do it either way -- three-A is not approved or three-B is approved. Mr. Schiltz, which do you want

DELEGATE SCHILTZ: Well, Mr. Chairman, I would like to say that perhaps we're having a misunderstanding here, and I'm sure we are, but it seems to me that if the proposed Constitution is approved by the electors, then the article five, as we have amended it, shall be retained.

CHAIRMAN GRAYBILL: No, then you're not giving the other guy a chance.

DELEGATE SCHILTZ: That's right, you're not giving it to that other one.

CHAIRMAN GRAYBILL: You're back with Mr. Choate. All right, how do you want it, Mr. Schiltz? Do you want it, if separate issue three-A is not approved, or do you want it, if separate issue three-B is approved?

DELEGATE SCHILTZ: Oh, I don't think it matters too much.

CHAIRMAN GRAYBILL: Probably it's better if separa

STATE PUBLISHING CO. HELENA, MONT.

issue three-A is not approved.

DELEGATE SCHILTZ: You're in section three, sub one?

CHAIRMAN GRAYBILL: Yes.

DELEGATE SCHILTZ: All right.

CHAIRMAN GRAYBILL: And then we have to leave that language in. Now, I take it -- I take it that we may reconsider section three of this second page. All in favor of reconsidering say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: O.K. Now, Mr. Davis, you will move that section three, sub one, read: If separate issue three-A is not approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then section nine of article three, General Government, shall be retained. Is that your motion?

DELEGATE DAVIS: I so move.

CHAIRMAN GRAYBILL: All right, all in favor of Mr. Davis' motion say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: All right, that's all in again with three-A and not. All right. That's approved for style.

STATE PUBLISHING CO. HELENA, MONT.

Now we are back up on the words after The Judiciary, sub two. And that should read what, Mr. Davis?

DELEGATE DAVIS: If separate issue two-A concerning the unicameral form of the legislature is not approved --

CHAIRMAN GRAYBILL: Two-A is not approved --

DELEGATE DAVIS: -- and the Constitution passes, two-B is automatically in whether it passes or not.

CHAIRMAN GRAYBILL: All right, Mr. Davis, we did never adopt the other one so we are back on it. Mr. Davis moves that it say: Sub two. If separate issue two-A concerning the bicameral form of the legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then article five, The Legislature, shall be retained. Is that your motion?

DELEGATE DAVIS: It's my motion except, Mr. President, you should substitute unicameral for bicameral there.

CHAIRMAN GRAYBILL: Concerning the unicameral.

DELEGATE DAVIS: Yes.

CHAIRMAN GRAYBILL: All right, I'll restate it for the transcript: If separate issue two-A concerning the unicameral form of the legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then article five, The Legislature, shall be retained. All in favor of Mr. Davis' motion say Aye.

DELEGATES: Aye.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: All right, that's taken care of. Now, the Chair would like to raise the question of -- I'd like you to read section four again, gentlemen. Down here where it says: And there shall be deleted from section twenty-one -- Mr. Dahood, have we got in there at the present time the language, except for capital offenses, when the proof is evident or the presumption is great?

DELEGATE SCHILTZ: Mr. Chairman, he isn't here but I know about that. It's on pages six and seven under section twenty-one and we ran across that in our work.

CHAIRMAN GRAYBILL: What's that, Bill of Rights?

DELEGATE SCHILTZ: Yes, it's Bill of Rights and it's Bail, and it's over on page seven. It says: All persons shall be bailable by sufficient sureties, except for capital offenses. Now, if capital punishment is abolished, why, that wouldn't obtain and I have a flag on that to remind the committee of it.

CHAIRMAN GRAYBILL: Mr. Harbaugh.

DELEGATE HARBAUGH: I'd like to ask a question, Mr. Schiltz.

DELEGATE SCHILTZ: Yes, I yield.

DELEGATE HARBAUGH: I fail to understand why it's necessary to delete that. It seems to me it has no relation-

STATE PUBLISHING CO. HELENA, MONT.

ship to the capital punishment issue. We are talking about bail here, not capital punishment.

DELEGATE SCHILTZ: What we are talking about, though, is if -- Mr. Dahood, do you understand what we are talking about?

DELEGATE DAHOOD: No, I understand what you are talking about and your position is correct.

DELEGATE SCHILTZ: You see, if capital offenses -- there won't be capital offenses any more. Capital punishment and capital offenses are co-equal. You can only execute a person for a capital offense, so then capital offenses are -- would no longer obtain in section twenty-one.

CHAIRMAN GRAYBILL: Mr. Harbaugh, a felony is different than a capital offense, is what they're saying, and a capital offense is an offense punishable by death. There being no offenses punishable by death any more, we don't need that language. Very well, the Chair stands corrected and I think section four is O.K.

Mr. Harper.

DELEGATE HARPER: I don't want to hold up the works but will we now be saying under section twenty-one, Bail, that all offenses are bailable, that there are no -- for example, heinous crimes, murders, anything else, are bailable?

CHAIRMAN GRAYBILL: That's what we'll be saying.

DELEGATE HARPER: I can see being -- I can see Mr.

STATE PUBLISHING CO. HELENA, MONT.

Harbaugh's point, I think. I can see us being against capital punishment but I don't necessarily want to lower my estimation of our -- how heinous a capital offense might be. Now, if you used the word, capital, again the wrong way, but I mean the same kind of crime.

DELEGATE DAVIS: Well, Mr. President --

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE DAVIS: It seems like, to be consistent, you just about have to adopt this. When we adopted the Bill of Rights we have already adopted the fact that all offenses are bailable except capital offenses, so we either have to go back, if the death penalty passes and they delete the death penalty, then you'd have to go back and try to work some wording in saying what sort of offenses, so I think we're at the stage now where you just about have to go with it and every offense is bailable, but then the court can adjust that as to amount. As a matter of fact, the federal government has pretty near held that anyway, haven't they? They let Angela out.

CHAIRMAN GRAYBILL: Mr. Hanson.

DELEGATE ROD HANSON: Mr. President, would Mr. Davis yield to a question?

CHAIRMAN GRAYBILL: Mr. Davis.

DELEGATE ROD HANSON: Carl, is there any statutes on this thing, say it's deleted from the Constitution, is

STATE PUBLISHING CO. HELENA, MONT.

there any statutes that apply, and if not -- let me make it a two-part question -- if not, then wouldn't the legislature be free to pass such statutes?

CHAIRMAN GRAYBILL: Mr. Davis, do you want to answer?

DELEGATE DAVIS: I am unable to answer that at the moment. I was going to look to see what's in our present Constitution, but I think this is identical to the present Constitution, isn't it?

CHAIRMAN GRAYBILL: I think Mr. Brown is going to tell you that if you change the Constitution, you've changed the statute. Isn't that right, Mr. Brown?

DELEGATE BROWN: No, what I was going to say, Mr. President, we're out of order. We are on Style and Drafting and we can't go back to the Bill of Rights. If the United States supreme court says the death penalty is unconstitutional, we'll be back to the old one. I think this discussion is out of order.

CHAIRMAN GRAYBILL: I think you're right and I think if it's out of order, the last sentence of section four has to be deleted. Now, maybe capital offenses should be former capital offenses, but, Mr. Dahood, we would be making a substantive change in Bill of Rights.

DELEGATE DAHOOD: Perhaps I can explain to the Delegates. We considered this proposition in drafting the Bill

STATE PUBLISHING CO. HELENA, MONT.

of Rights. We saw no problem. We appreciated the fact the death penalty might be a separate issue. Once it becomes a separate issue and it is voted upon -- if abolition of the death penalty is voted upon, that particular phrase will then become inoperative. It's really no problem. California just had the problem. When they abolished the death penalty, they merely ruled that that portion in their constitution was not operative and they granted bail to Angela Davis. We see no real problem at all.

CHAIRMAN GRAYBILL: Well, don't you agree then that we ought to delete this business of deleting it in the Bill of Rights because it seems to me --

DELEGATE DAHOOD: If we are going to follow the strict rule with respect to substantive matters, yes. I was not going to stand and object to it because it's going to bring about the result that I think we are going to have automatically anyway.

CHAIRMAN GRAYBILL: Mr. Brown.

DELEGATE BROWN: I didn't mean we couldn't put this in section four. It probably should be in there. It would make a clearer Constitution. What I was trying to stop was a discussion about getting back and starting amending the Bill of Rights, but I don't have any objection to section four staying in. It will clarify the Constitution.

CHAIRMAN GRAYBILL: Mr. Schiltz.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SCHILTZ: Mr. Chairman, later on in the transition schedule you will see a section that authorizes the attorney general once a year to review the Constitution and delete anything that then must be deleted, and that's the reason for this having been in there.

CHAIRMAN GRAYBILL: All right, so it's O.K. to leave it in there, right?

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: Very well, I think we have amended the adoption schedule sufficiently. Do you want to move the entire adoption schedule, Mr. --

DELEGATE SCHILTZ: Yes.

CHAIRMAN GRAYBILL: Just a minute.

Mr. Heliker.

DELEGATE HELIKER: Mr. Chairman, I move to amend section two, subsection one, sub-sub (c) at the top of unnumbered page two, following the word, The Judiciary. Change the period to a comma and add the following words: and in subsection one of section two, article twelve, Departments and Institutions.

DELEGATE SCHILTZ: Could you do that a little slower, please?

DELEGATE HELIKER: Yes. Add, after inserting a comma, and in subsection one of section two, article twelve, Departments and Institutions, where you have a provision for

STATE PUBLISHING CO. HELENA, MONT.

a commissioner of labor confirmed by the senate.

DELEGATE SCHILTZ: Could I ask for the page where that is?

CHAIRMAN GRAYBILL: Is this after the period where it says Judiciary or is this in the next paragraph, Mr. Heliker?

DELEGATE HELIKER: After the period.

CHAIRMAN GRAYBILL: After the Judiciary, period?

DELEGATE HELIKER: Right. It's just adding one more section where you have to change senate to legislature.

CHAIRMAN GRAYBILL: In other words there's another place that you change senate to legislature.

DELEGATE HELIKER: Mr. Chairman, on page fifty-seven.

DELEGATE SCHILTZ: Fifty-seven, George?

DELEGATE HELIKER: Line sixteen.

CHAIRMAN GRAYBILL: Yes. Are you with us, Mr. Schiltz?

DELEGATE SCHILTZ: I have now found you. Now, I've got to get back --

CHAIRMAN GRAYBILL: The computer must have goofed.

(Laughter)

DELEGATE SCHILTZ: Yeah, this is tough work.

CHAIRMAN GRAYBILL: Is it all right to say, the Judiciary, comma, and in subsection one of section two of the

STATE PUBLISHING CO. HELENA, MONT.

article on Departments and Institutions?

DELEGATE SCHILTZ: Well, I think we ought to be uniform and say the section numbers that he mentioned, and I think maybe he did, but I'll make sure -- the subsections he numbered of -- section two, article Roman twelve, caps, Departments and Institutions.

CHAIRMAN GRAYBILL: O.K., and that goes in right after the words, The Judiciary, comma.

DELEGATE SCHILTZ: Right.

Mr. Delaney.

DELEGATE DELANEY: Mr. Chairman, I believe we have a senate regardless of whether we have a bicameral or a unicameral and this was, I think, the intention for these commissioners to be appointed by the governor, then approved by the senate, regardless of whether it was a unicameral or a bicameral, and I don't believe it should be changed.

CHAIRMAN GRAYBILL: Yes, I think you may be right. What do you think of that, Mr. Heliker?

DELEGATE HELIKER: Well, isn't this the same thing in all cases?

DELEGATE SCHILTZ: That's what I'm now checking out.

CHAIRMAN GRAYBILL: In other words, there's a -- in other words, what's wrong with having the commissioner confirmed by the senate. There's going to be a senate whether it's a unicameral or a bicameral senate.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE HELIKER: Well, I say again, aren't these all the same?

CHAIRMAN GRAYBILL: Well, that's what Mr. Schiltz is checking.

DELEGATE SCHILTZ: Well, no, this is -- just applies to the unicameral situation, you see. No, wait -- I'd better work on this.

CHAIRMAN GRAYBILL: Let's see, section eight, one, two and four. They are confirmations. I don't see why you need them -- it looks to me like subsection (c) is wrong, Mr. Schiltz, because at least the one on The Executive article, subsections one, two and four, are concerning confirmation of appointments and there's no reason why that can't still say senate.

DELEGATE SCHILTZ: Well, I guess that's right.

CHAIRMAN GRAYBILL: All right, now, let's look at Judiciary.

DELEGATE HELIKER: Mr. Chairman.

CHAIRMAN GRAYBILL: Let's just check it out here -- Judiciary eight, one and two. Yes, that's still -- the courts are to be confirmed by the senate, too, so I think that the problem is that subsection (c) on page one is unnecessary, Mr. Schiltz.

DELEGATE SCHILTZ: I think that's right.

CHAIRMAN GRAYBILL: Mr. Garlington, do you have an

STATE PUBLISHING CO. HELENA, MONT.

opinion?

DELEGATE GARLINGTON: I want to point out, Mr. Chairman, that in section one of article five of the unicameral on page fifteen, line four, it is said of the unicameral body that it is a legislature. It doesn't call it a senate, it calls it a legislature.

CHAIRMAN GRAYBILL: It's a legislature with members called senators. All right, we've either got to take it out or we've got to put Mr. Heliker's in, Mr. Schiltz.

DELEGATE SCHILTZ: No, I think Mr. Garlington is right. We should put -- I got on that a minute ago -- and we should put Mr. Heliker's in.

CHAIRMAN GRAYBILL: All right, the motion is to add to the top of the second page, after the word Judiciary, a comma, then subsection one of section two, article Roman twelve, Departments and Institutions, period. All in favor of doing that, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Now, Mr. Schiltz, do you think you're ready to move the adoption schedule as a whole?

DELEGATE SCHILTZ: I do. Mr. Chairman, I move that when this Committee does arise and report, after having had

STATE PUBLISHING CO. HELENA, MONT.

under consideration the adoption schedule, Style and Drafting final report, it recommend the same be adopted.

CHAIRMAN GRAYBILL: So many as are in favor of adopting the adoption schedule as a whole, say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: So ordered. Now, we'll look at the transition schedule which was in those papers you had yesterday. Transition schedule.

DELEGATE SCHILTZ: It's the last page of the book, Mr. Chairman.

CHAIRMAN GRAYBILL: It is also in the book. If you have stricken -- in your book you should have stricken the official ballot and you should have stricken the adoption schedule. It's the third from the last page in the book, and the transition schedule is identical there and on the pages that we had yesterday. Will the Clerk please read the transition schedule so we can all become acquainted with it.

CLERK HANSON: (Reading) The report of the Committee on Style, Drafting, Transition and Submission, Final Report. Transition Schedule. The following provisions shall remain part of this Constitution until their terms have been exhausted--

CHAIRMAN GRAYBILL: Executed.

(Laughter)

STATE PUBLISHING CO. HELENA, MONT.

CLERK HANSON: (Reading)--executed. Once each year the attorney general shall review the following provisions and certify to the secretary of state which, if any, have been executed. Any provisions so certified shall thereafter be removed from this schedule and no longer published as part of this Constitution. Section one, Accelerated Effective Date. Section two, Delayed Effective Date. Section three, Prospective Operation of Declaration of Rights. Section four, Terms of Judiciary. Section five, Terms of Legislators. Section six, General Transition. Section one, Accelerated Effective Date. Section fourteen, Districting and Apportionment, of article five, The Legislature, shall be effective January 1, 1973. Section two, Delayed Effective Date. The provisions of sections one, two and three of article five, Legislature, shall not become effective until the date the first redistricting and reapportionment plan becomes law. Section three, Prospective Operation of Declaration of Rights. Any rights, procedural or substantive, created for the first time by article two shall be prospective and not retroactive. Section four, Terms of Judiciary. Supreme court justices, district court judges, and justices of the peace holding office when this Constitution becomes effective shall serve the terms for which they were elected or appointed. Section five, Terms of Legislators. Subsection one. The terms of all legislators elected before the effective date of this Constitution shall

STATE PUBLISHING CO. HELENA, MONT.

end on December thirty-first of the year in which the first redistricting and reapportionment plan becomes law. Subsection two. The senators first elected under this Constitution shall draw lots to establish a term of two years for one-half of their number. Section six, General Transition, subsection one. The rights and duties of all public bodies shall remain as if this Constitution had not been adopted with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations, and rules of court not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution. Subsection two. The validity of all public and private bonds, debts, and contracts, and of all suits, actions, and rights of action, shall continue as if no change had taken place. Subsection three. All officers filling any office by election or appointment shall continue the duties thereof, until their offices shall have been abolished or their successors selected and qualified in accordance with this Constitution or laws enacted pursuant thereto. (End reading)

Mr. Chairman, the Transition Schedule.

CHAIRMAN GRAYBILL: All right. Now, there are some amendments to this, but they are all written and they can probably be taken care of easily. Do you want to make a statement before you take up your first amendment, Mr. Schiltz?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SCHILTZ: Well, Mr. Chairman, the transition schedule, as you can tell from the reading we just had, is in order to have some continuity between the old Constitution and the new one, and for an orderly transfer from that old Constitution to a new one, and I don't think I need to say any more than that.

CHAIRMAN GRAYBILL: All right, Mr. Schiltz, you have an amendment up here. May we read it?

DELEGATE SCHILTZ: Please.

CHAIRMAN GRAYBILL: Mr. Clerk.

CLERK HANSON: (Reading) Transition schedule. Mr. Chairman, I move to amend section six, subsection three, of the transition schedule by deleting the word, there, after the word, until, and adding between until and offices the following: (quote) the end of the terms to which they were appointed or elected, comma, and until their (end of quote). Signed, Schiltz.

DELEGATE SCHILTZ: Mr. Chairman.

CHAIRMAN GRAYBILL: This is in the last subsection, subsection three, and the amendment deletes the word, their, after the word, until -- that's in the second line -- and adds the following phrase: the end of the terms to which they have been appointed or elected, and until their. O.K. Now, Mr. Schiltz, do you want to discuss that?

DELEGATE SCHILTZ: Briefly, Mr. Chairman. This --

STATE PUBLISHING CO. HELENA, MONT.

there was some question in the minds of the committee and other people whether the secretary -- or, the treasurer and the clerk of the supreme court might be terminated prior to the time when their elected terms ran. In other words, without this language it was possible the legislature could abolish their jobs and they would be out of business, so that language was put in there for that purpose.

CHAIRMAN GRAYBILL: It merely allows them to serve out the terms for which they are now elected, is that right?

DELEGATE SCHILTZ: That's correct.

CHAIRMAN GRAYBILL: All right, is there any discussion?

Mr. Mahoney.

DELEGATE MAHONEY: In this case and the case of the treasurer, if he was elected this year, he would be out at the end of this year under this, wouldn't he?

CHAIRMAN GRAYBILL: Mr. McDonough.

DELEGATE McDONOUGH: I would like to ask Mr. Schiltz a question. Would he yield, please?

DELEGATE SCHILTZ: I yield.

DELEGATE McDONOUGH: Does this affect the appointed boards that might be abolished by this Constitution, or be changed? Would those appointed boards or public offices remain until their term expires?

DELEGATE SCHILTZ: Well, I assume it would, Mr.

STATE PUBLISHING CO. HELENA, MONT.

McDonough. I don't know if there are any, but it's appointments that are appointed for a definite term and that's -- but, of course, what we already had in there affected those same people to the same extent. This language just makes sure that they can serve until the end of their elected or appointed terms.

CHAIRMAN GRAYBILL: Is there further discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of Mr. Schiltz's amendment say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. All right, Mr. Loendorf has an amendment. Do you want us to read it, Mr. Loendorf?

(Chairman Graybill had pronounced Delegate Loendorf's name as Low-en-dorf.)

DELEGATE LOENDORF: Yes, Mr. Redbill.

(Laughter)

CHAIRMAN GRAYBILL: Mr. Loendorf.

DELEGATE LOENDORF: Yes, Mr. Chairman, please.

CHAIRMAN GRAYBILL: We'll read it wrong if you aren't careful.

(Laughter)

STATE PUBLISHING CO. HELENA, MONT. 3

CHAIRMAN GRAYBILL: O.K. Excuse me, Mr. Loendorf. It would have been easier, though, if they had spelled it differently, wouldn't it?

(Laughter)

DELEGATE LOENDORF: Yes.

CHAIRMAN GRAYBILL: O.K., Mr. Loendorf's amendment.

CLERK HANSON: (Reading) Transition schedule. Mr. Chairman, I move to amend section one of the transition schedule by deleting on the first line of section one the word, section, and inserting in lieu thereof the following: (quote) section six, parenthesis, session, end of parenthesis, and (end of quote). Signed, Loendorf. (End reading)

CHAIRMAN GRAYBILL: That's on section one and you want to delete the word, section?

DELEGATE LOENDORF: What it does, Mr. Chairman, it simply -- I don't really delete the word, section. I delete it and replace it with the word, sections, the plural.

CHAIRMAN GRAYBILL: Oh, six and fourteen, is that what you wanted to say?

DELEGATE LOENDORF: Yes, Mr. Chairman.

CHAIRMAN GRAYBILL: Sections six and fourteen instead of just section fourteen. All right, you may explain it.

DELEGATE LOENDORF: O.K. Very briefly, Mr. Chairman, this was an amendment approved by Style and Drafting this

STATE PUBLISHING CO. HELENA, MONT.

morning. However, we did not have time to have it typed and included as a part of the transition schedule here. Therefore, it is necessary to make this amendment from the floor. The purpose is, as you know, our legislature now has more work than it can handle in sixty days. We are about to drop on it, if this Constitution passes, much more work. In other words, at this next session they will have to take care of implementing legislation. By adopting this amendment, you merely allow section six to become effective next January one, rather than on July one, 1973. In other words, it becomes effective six months earlier and how this will help the legislature is this. They can meet sixty legislative days, rather than sixty continuous days. You will relieve them from that pressure cooker process they are in now, and you will give them more time to consider not only their regular work but the additional work we are creating for them. Thank you, Mr. Chairman.

CHAIRMAN GRAYBILL: Any discussion?

(No response)

CHAIRMAN GRAYBILL: All in favor of Mr. Loendorf's amendment say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed?

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. All right, we

STATE PUBLISHING CO. HELENA, MONT.

have another one up here. Mr. Kelleher, do you want us to read yours?

DELEGATE KELLEHER: (Inaudible. Microphone not turned on.)

CHAIRMAN GRAYBILL: Pardon? May we read yours?

DELEGATE KELLEHER: Yes.

CLERK HANSON: (Reading) Transition schedule. Mr. Chairman, I move to amend section four of the transition schedule by deleting the words, (quote) become effective (end quote) and inserting in lieu thereof the following new words, is ratified (end of quote), so that the section reads as follows: (quote) Section four, Terms of Judiciary. Supreme court justices, district court judges, and judges of the peace holding office when this Constitution is ratified shall serve the terms for which they were elected or appointed. (end of quote) Signed, Heliker -- Kelleher. (End reading)

Mr. Chairman.

CHAIRMAN GRAYBILL: Mr. Kelleher, do you want to explain that?

DELEGATE KELLEHER: All twenty-eight district judges are up for re-election this year and this would mean that they would get the six year terms instead of the four year terms.

CHAIRMAN GRAYBILL: Mr. Schiltz, do you have any comment?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SCHILTZ: Well, the only thing is, we have used the words, become effective, all throughout the transition schedule and the adoption schedule. We've got an effective date which uses that terminology. Up in section one, we talk about shall be effective January 1, 1973. It's our terminology. I don't see either how if ratified gives them any longer term than becomes effective. I don't know -- I'd like to have it explained.

CHAIRMAN GRAYBILL: Mr. Kelleher.

DELEGATE KELLEHER: I assume that if it is ratified, that would be June the sixth. That would be the date of ratification and they will be running in November for terms beginning next January.

CHAIRMAN GRAYBILL: I guess -- the Constitution doesn't become effective, Mr. Schiltz, until January 1, 1973. Is that before --

DELEGATE SCHILTZ: No --

CHAIRMAN GRAYBILL: Do their terms come before that?

DELEGATE SCHILTZ: The effective date of the Constitution will be July 1, 1973.

CHAIRMAN GRAYBILL: I see.

DELEGATE SCHILTZ: And I see now what Mr. Kelleher is getting at. I'm not --

CHAIRMAN GRAYBILL: Would you rather change it to --

STATE PUBLISHING CO. HELENA, MONT.

and justices of the peace holding office -- shall serve the terms for which they were elected -- or, do you want to make it January first? Do you want to add that section up above under accelerated effective date?

DELEGATE SCHILTZ: No, I want to stay with what we have which is, becomes effective. This matter came up in the committee and we rejected the thought. I see now what it is. And decided that everybody would start after the effective date and there's just as much reason to apply an accelerated effective date to every officer we have, and I wouldn't want to fool with it.

CHAIRMAN GRAYBILL: In other words, if you vote for Mr. Kelleher, the judges that run this fall will get a six year term, but if you vote with the Style and Drafting Committee, the judges that run this fall get a four year term and the next ones will get a six year term. That's correct. All right, so many as are in favor of Mr. Kelleher's amendment say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: No.

CHAIRMAN GRAYBILL: The Noes have it and Mr. Kelleher's is defeated. Very well, are there other amendments? I have no more up here?

(No response)

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: If not, Mr. Schiltz, do you want to move the transition schedule as a whole?

DELEGATE SCHILTZ: Mr. Chairman, I move that when this committee does arise and report, after having had under consideration the transition schedule, Style and Drafting Committee final report, it recommend the same be adopted, as amended.

CHAIRMAN GRAYBILL: All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: It's adopted. Now, Mr. Eskildsen, I'd move that this committee rise and report fully, or whatever you want to do.

DELEGATE ESKILDSEN: Mr. Chairman --

CHAIRMAN GRAYBILL: Just a moment.

Mr. Habedank.

DELEGATE HABEDANK: I may be wrong, but according to my schedule, we never did adopt the Legislative article, number three, that we amended. Did that ever get adopted completely?

CHAIRMAN GRAYBILL: Legislative on what?

DELEGATE HABEDANK: Article three, I think it is, by a roll call vote is required.

CHAIRMAN GRAYBILL: Well, we are going to move now

STATE PUBLISHING CO. HELENA, MONT.

to Order of Business Number Six. We have just completed the style and drafting on sections five and -- or, article five and article three, and we are going to six. Now, Mr. Romney, for what purpose do you rise?

DELEGATE ROMNEY: Mr. Chairman, I rise to inquire if the sections in the ballot -- one, two, three and four -- were individually moved and approved, and if the record shows that?

CHAIRMAN GRAYBILL: No, they were not individually moved, but I'm not sure they are sections. They are divisions. We moved the ballot as a whole on style and drafting.

DELEGATE ROMNEY: Is that all the record needs to show?

CHAIRMAN GRAYBILL: Do you -- well, Mr. Schiltz or Mr. Murray, the official ballot is not sectionalized. Do I have to have a separate motion on each ballot? We did approve each part and then we adopted it, but we didn't -- any reason we can't rise and report the ballot as a whole?

DELEGATE SCHILTZ: Well, Mr. Chairman --

CHAIRMAN GRAYBILL: Mr. Schiltz.

DELEGATE SCHILTZ: I don't think the ballot or the adoption schedule will be part of the Constitution and so, I think they are each adopted as a whole, although they are sectionalized. The ballot isn't, but the adoption schedule is.

CHAIRMAN GRAYBILL: Well, Mr. Schiltz, I didn't get

STATE PUBLISHING CO. HELENA, MONT.

the sense of your message.

DELEGATE SCHILTZ: Well, -- well, maybe I was wrong, but I --

CHAIRMAN GRAYBILL: All right, let's put it this way. We have now voted, Mr. Romney, on the style and drafting of the ballot and we have adopted it for style and drafting. Now, Mr. Murray, should we move the ballot? We certainly can move three and five to Order of Business six. Should we move the ballot and this other material to six or to five. Mr. Hanson tells me that there's a rule that says the ballot and all this transitional material all goes directly to six. Is that correct?

DELEGATE MURRAY: Mr. Chairman, Rule Fifty-One, I think, requires that all of this material goes to Order of Business number six.

CHAIRMAN GRAYBILL: Committee of the Whole consideration of proposed constitutional ballot. The proposal of the Committee on Style shall be considered only as to the form of the proposed Constitution and the form and style of ballot. The report of the Committee of the Whole shall be referred to Order of Business number six. The vote on Order of Business number six shall be without debate and be a recorded roll call vote of the Delegates. So the rules -- that's Rule Fifty-One -- require that the Style and Drafting Committee proposals on the Constitution as a whole and the ballot and this other

STATE PUBLISHING CO. HELENA, MONT.

material go directly to Order of Business number six. Now, in Order of Business number six we will adopt the two articles individually and we will adopt this other material individually. We can take it separately but I don't know that we'd take it singly. Is there --

Mr. Murray.

DELEGATE MURRAY: I think we should move the adoption schedule, the transition schedule, the ballot and three and five, and take a vote on each one just to cover this.

CHAIRMAN GRAYBILL: Yes, well, we'll do that but Mr. Romney's question is, do we want to vote separately on parts one, two, three and four of the ballot.

DELEGATE MURRAY: No, the ballot is considered in its entirety under these rules.

CHAIRMAN GRAYBILL: The ballot is proposed by Style and Drafting as a unit and it's to be considered as a unit. In other words, Mr. Romney, the ruling of -- the rules -- or, the opinion of Mr. Murray and the ruling of the Chair would be that those numbers are not subsections of a ballot. They are distinguishing issues on a ballot, and that the ballot is a unit.

Mr. Romney.

DELEGATE ROMNEY: I do not object to it, but I thought that it not having been done, it was well to discuss it now.

STATE PUBLISHING CO. HELENA, MONT.

CHAIRMAN GRAYBILL: Right. I think it is a good thing you mentioned it and we will vote on each of those parts individually when we get to Order of Business number six, if that's all right with everybody. All right, we need to move to rise and report finally, Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. Chairman, I move the Committee of the Whole rise and finally report.

CHAIRMAN GRAYBILL: All in favor say Aye.

DELEGATES: Aye.

CHAIRMAN GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

CHAIRMAN GRAYBILL: So ordered. And, we'll do that promptly for you.

(Proceedings resolved into Convention with President Graybill presiding.)

PRESIDENT GRAYBILL: Very well, the Clerk will please read the Committee of the Whole report and the signature.

CLERK HANSON: (Reading) March 22, 1972. Mr. President: We, your Committee of the Whole, having had under consideration business under general orders, recommend as follows: That the committee rise and finally report. Signed, Graybill, Chairman. (End reading)

PRESIDENT GRAYBILL: Is there anyone who would like the Committee of the Whole report read in its entirety?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATES: No.

PRESIDENT GRAYBILL: Very well. Mr. Eskildsen, will you move that the Committee of the Whole report be referred to Order of Business number six?

DELEGATE ESKILDSEN: Mr. President, I move that the Committee of the Whole be adopted and that proposal number three, proposal number five, the ballot, the transition schedule and the adoption schedule be placed on Order of Business number six.

PRESIDENT GRAYBILL: You have heard the motion. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: Very well. We are on Order of Business number six. Mr. Eskildsen, do you want to move us to Order of Business number six?

DELEGATE ESKILDSEN: Without objection, may we be on Order of Business number six?

PRESIDENT GRAYBILL: Is there objection?

(No response)

PRESIDENT GRAYBILL: Very well, we are on Order of Business number six. On Order of Business number six, the Chair would like to take the balance of the Constitution first and this morning we passed article three, which is the General

STATE PUBLISHING CO. HELENA, MONT.

Government article, beginning on page eleven and going through page thirteen, with the first section nine on gambling deleted. So many as shall be in favor of article three, vote Aye on the voting machines. So many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Please take the ballot.

Aasheim	-	Aye	Blend	-	Aye
Anderson, J.	-	Aye	Bowman	-	Aye
Anderson, O.	-	Aye	Brazier	-	Aye
Arbanas	-	Aye	Brown	-	Absent
Arness	-	Absent	Bugbee	-	Aye
Aronow	-	Aye	Burkhardt	-	Aye
Artz	-	Aye	Cain	-	Aye
Ask	-	Aye	Campbell	-	Excused
Babcock	-	Aye	Cate	-	Absent
Barnard	-	Aye	Champoux	-	Absent
Bates	-	Aye	Choate	-	Aye
Belcher	-	Aye	Conover	-	Aye
Berg	-	Aye	Cross	-	Aye
Berthelson	-	Aye	Dahood	-	Absent
Blaylock	-	Aye	Davis	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Delaney	-	Aye	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Aye
Drum	-	Absent	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Absent
Eskildsen	-	Aye	Mahoney	-	Aye
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Absent
Garlington	-	Aye	McKeon	-	Absent
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Absent
Hanson, R.	-	Aye	Murray	-	Aye
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Aye
Harper	-	Aye	Payne	-	Aye
Harrington	-	Nay	Pemberton	-	Aye
Heliker	-	Aye	Rebal	-	Aye
Holland	-	Absent	Reichert	-	Absent
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.

Rygg	-	Aye	Swanberg	-	Aye
Scanlin	-	Nay	Toole	-	Aye
Schiltz	-	Aye	Van Buskirk	-	Aye
Siderius	-	Aye	Vermillion	-	Aye
Simon	-	Aye	Wagner	-	Aye
Skari	-	Aye	Ward	-	Aye
Sparks	-	Aye	Warden	-	Aye
Speer	-	Aye	Wilson	-	Aye
Studer	-	Aye	Woodmansey	-	Aye
Sullivan	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-four Delegates voting Aye, two voting No.

PRESIDENT GRAYBILL: It's adopted. Now, if you'll turn to article five. It's the bicameral article five beginning on page twenty three, continuing through page twenty-eight. So many as shall be in favor of article five, the bicameral legislature, vote Aye on the voting machines. So many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, cast the ballot.

Aasheim	-	Aye	Anderson, O.	-	Aye
Anderson, J.	-	Aye	Arbanas	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Arness	-	Absent	Davis	-	Aye
2	Aronow	-	Absent	Delaney	-	Aye
3	Artz	-	Aye	Driscoll	-	Aye
4	Ask	-	Aye	Drum	-	Absent
5	Babcock	-	Aye	Eck	-	Aye
6	Barnard	-	Aye	Erdmann	-	Aye
7	Bates	-	Aye	Eskildsen	-	Aye
8	Belcher	-	Aye	Etchart	-	Aye
9	Berg	-	Aye	Felt	-	Absent
10	Berthelson	-	Aye	Foster	-	Aye
11	Blaylock	-	Aye	Furlong	-	Aye
12	Blend	-	Aye	Garlington	-	Aye
13	Bowman	-	Aye	Gysler	-	Aye
14	Brazier	-	Absent	Habedank	-	Aye
15	Brown	-	Aye	Hanson, R. S.	-	Aye
16	Bugbee	-	Nay	Hanson, R.	-	Aye
17	Burkhardt	-	Aye	Harbaugh	-	Aye
18	Cain	-	Aye	Harlow	-	Nay
19	Campbell	-	Excused	Harper	-	Aye
20	Cate	-	Absent	Harrington	-	Aye
21	Champoux	-	Absent	Heliker	-	Nay
22	Choate	-	Nay	Holland	-	Absent
23	Conover	-	Aye	Jacobsen	-	Aye
24	Cross	-	Aye	James	-	Aye
25	Dahood	-	Absent	Johnson	-	Aye

STATE
PUBLISHING CO.
HELENA, MONT.
3

Joyce	-	Aye	Roeder	-	Aye
Kamhoot	-	Aye	Rollins	-	Nay
Kelleher	-	Nay	Romney	-	Aye
Leuthold	-	Aye	Rygg	-	Aye
Loendorf	-	Aye	Scanlin	-	Nay
Lorello	-	Absent	Schiltz	-	Aye
Mahoney	-	Aye	Siderius	-	Aye
Mansfield	-	Aye	Simon	-	Aye
Martin	-	Aye	Skari	-	Aye
McCarvel	-	Aye	Sparks	-	Aye
McDonough	-	Aye	Speer	-	Aye
McKeon	-	Absent	Studer	-	Aye
McNeil	-	Aye	Sullivan	-	Aye
Melvin	-	Aye	Swanberg	-	Aye
Monroe	-	Nay	Toole	-	Aye
Murray	-	Aye	Van Buskirk	-	Aye
Noble	-	Aye	Vermillion	-	Aye
Nutting	-	Aye	Wagner	-	Aye
Payne	-	Aye	Ward	-	Aye
Pemberton	-	Aye	Warden	-	Absent
Rebal	-	Aye	Wilson	-	Aye
Reichert	-	Absent	Woodmansey	-	Aye
Robinson	-	Nay	Mr. President	-	Aye

CLERK HANSON: Mr. President, seventy-seven Delegates voting Aye, nine voting No.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Seventy-seven Delegates having voted Aye and nine voting No, section -- or, article five is adopted. Now, if you will take the ballot, as amended today, including the amendatory language and including the unicameral and bicameral, part two, and including the reversal of Harper's on part three, and including part four. So many as shall be in favor of the ballot, as amended and adopted this afternoon, vote Aye on the voting machines. So many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	-	Aye	Belcher	-	Aye
Anderson, J.	-	Aye	Berg	-	Aye
Anderson, O.	-	Aye	Berthelson	-	Aye
Arbanas	-	Aye	Blaylock	-	Aye
Arness	-	Absent	Blend	-	Aye
Aronow	-	Aye	Bowman	-	Aye
Artz	-	Aye	Brazier	-	Aye
Ask	-	Aye	Brown	-	Aye
Babcock	-	Aye	Bugbee	-	Aye
Barnard	-	Aye	Burkhardt	-	Aye
Bates	-	Aye	Cain	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Campbell	-	Excused	Harper	-	Aye
Cate	-	Absent	Harrington	-	Nay
Champoux	-	Absent	Heliker	-	Nay
Choate	-	Nay	Holland	-	Absent
Conover	-	Aye	Jacobsen	-	Nay
Cross	-	Aye	James	-	Aye
Dahood	-	Absent	Johnson	-	Aye
Davis	-	Aye	Joyce	-	Aye
Delaney	-	Aye	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Nay
Drum	-	Absent	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Absent
Eskildsen	-	Aye	Mahoney	-	Aye
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Aye	McKeon	-	Absent
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Nay	Melvin	-	Aye
Hanson, R. S.	-	Aye	Monroe	-	Nay
Hanson, R.	-	Aye	Murray	-	Aye
Harbaugh	-	Aye	Noble	-	Aye
Harlow	-	Aye	Nutting	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Payne	-	Aye	Sparks	-	Aye
Pemberton	-	Aye	Speer	-	Aye
Rebal	-	Aye	Studer	-	Nay
Reichert	-	Aye	Sullivan	-	Aye
Robinson	-	Nay	Swanberg	-	Aye
Roeder	-	Aye	Toole	-	Aye
Rollins	-	Nay	Van Buskirk	-	Aye
Romney	-	Nay	Vermillion	-	Aye
Rygg	-	Aye	Wagner	-	Aye
Scanlin	-	Aye	Ward	-	Aye
Schiltz	-	Aye	Warden	-	Aye
Siderius	-	Aye	Wilson	-	Aye
Simon	-	Aye	Woodmansey	-	Aye
Skari	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, seventy-nine Delegates voting Aye, eleven voting No.

PRESIDENT GRAYBILL: Seventy-nine Delegates having voted Aye and eleven No, the ballot is adopted. Now, if you will take the adoption schedule, as amended in Committee of the Whole and adopted for style, including the changes we have made this afternoon. So many as are in favor of the adoption schedule vote Aye on the voting machines; so many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to

STATE PUBLISHING CO. HELENA, MONT.

change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

Aasheim	-	Aye	Campbell	-	Excused
Anderson, J.	-	Aye	Cate	-	Absent
Anderson, O.	-	Aye	Champoux	-	Absent
Arbanas	-	Aye	Choate	-	Aye
Arness	-	Absent	Conover	-	Aye
Aronow	-	Aye	Cross	-	Aye
Artz	-	Aye	Dahood	-	Absent
Ask	-	Aye	Davis	-	Aye
Babcock	-	Aye	Delaney	-	Aye
Barnard	-	Aye	Driscoll	-	Aye
Bates	-	Aye	Drum	-	Absent
Belcher	-	Aye	Eck	-	Aye
Berg	-	Aye	Erdmann	-	Aye
Berthelson	-	Aye	Eskildsen	-	Aye
Blaylock	-	Aye	Etchart	-	Aye
Blend	-	Aye	Felt	-	Absent
Bowman	-	Aye	Foster	-	Aye
Brazier	-	Aye	Furlong	-	Aye
Brown	-	Aye	Garlington	-	Aye
Bugbee	-	Aye	Gysler	-	Aye
Burkhardt	-	Aye	Habedank	-	Aye
Cain	-	Aye	Hanson, R. S.	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

1	Hanson, R.	-	Aye	Murray	-	Aye
2	Harbaugh	-	Aye	Noble	-	Aye
3	Harlow	-	Aye	Nutting	-	Aye
4	Harper	-	Aye	Payne	-	Aye
5	Harrington	-	Aye	Pemberton	-	Aye
6	Heliker	-	Aye	Rebal	-	Aye
7	Holland	-	Absent	Reichert	-	Absent
8	Jacobsen	-	Aye	Robinson	-	Aye
9	James	-	Aye	Roeder	-	Aye
10	Johnson	-	Aye	Rollins	-	Aye
11	Joyce	-	Aye	Romney	-	Aye
12	Kamhoot	-	Aye	Rygg	-	Aye
13	Kelleher	-	Aye	Scanlin	-	Aye
14	Leuthold	-	Aye	Schiltz	-	Aye
15	Loendorf	-	Aye	Siderius	-	Aye
16	Lorello	-	Absent	Simon	-	Aye
17	Mahoney	-	Aye	Skari	-	Aye
18	Mansfield	-	Aye	Sparks	-	Aye
19	Martin	-	Aye	Speer	-	Aye
20	McCarvel	-	Aye	Studer	-	Aye
21	McDonough	-	Aye	Sullivan	-	Aye
22	McKeon	-	Absent	Swanberg	-	Aye
23	McNeil	-	Aye	Toole	-	Aye
24	Melvin	-	Aye	Van Buskirk	-	Aye
25	Monroe	-	Aye	Vermillion	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Wagner	-	Aye	Wilson	-	Aye
Ward	-	Aye	Woodmansey	-	Aye
Warden	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-nine Delegates voting Aye, no Delegates voting No.

PRESIDENT GRAYBILL: Eighty-nine Delegates having voted Aye, the adoption schedule is adopted. All right, if you will take the transition schedule that we worked on this afternoon and that we amended most recently. So many as shall be in favor of the transition schedule vote Aye, and so many as shall be opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, take the ballot.

Aasheim	-	Aye	Barnard	-	Aye
Anderson, J.	-	Aye	Bates	-	Aye
Anderson, O.	-	Aye	Belcher	-	Aye
Arbanas	-	Aye	Berg	-	Aye
Arness	-	Absent	Berthelson	-	Aye
Aronow	-	Aye	Blaylock	-	Aye
Artz	-	Aye	Blend	-	Aye
Ask	-	Aye	Bowman	-	Aye
Babcock	-	Aye	Brazier	-	Aye

STATE PUBLISHING CO HELENA, MONT

Brown	-	Aye	Hanson, R. S.	-	Aye
Bugbee	-	Aye	Hanson, R.	-	Aye
Burkhardt	-	Aye	Harbaugh	-	Aye
Cain	-	Aye	Harlow	-	Aye
Campbell	-	Excused	Harper	-	Aye
Cate	-	Absent	Harrington	-	Aye
Champoux	-	Absent	Heliker	-	Nay
Choate	-	Aye	Holland	-	Absent
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Aye	James	-	Aye
Dahood	-	Absent	Johnson	-	Aye
Davis	-	Aye	Joyce	-	Aye
Delaney	-	Aye	Kamhoot	-	Aye
Driscoll	-	Aye	Kelleher	-	Nay
Drum	-	Absent	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Absent
Eskildsen	-	Aye	Mahoney	-	Aye
Etchart	-	Aye	Mansfield	-	Aye
Felt	-	Absent	Martin	-	Aye
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Aye
Garlington	-	Aye	McKeon	-	Absent
Gysler	-	Aye	McNeil	-	Aye
Habedank	-	Aye	Melvin	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Monroe	-	Aye	Simon	-	Aye
Murray	-	Aye	Skari	-	Aye
Noble	-	Aye	Sparks	-	Aye
Nutting	-	Aye	Speer	-	Aye
Payne	-	Aye	Studer	-	Aye
Pemberton	-	Aye	Sullivan	-	Aye
Rebal	-	Aye	Swanberg	-	Aye
Reichert	-	Absent	Toole	-	Aye
Robinson	-	Aye	Van Buskirk	-	Aye
Roeder	-	Aye	Vermillion	-	Aye
Rollins	-	Aye	Wagner	-	Aye
Romney	-	Aye	Ward	-	Aye
Rygg	-	Aye	Warden	-	Aye
Scanlin	-	Aye	Wilson	-	Aye
Schiltz	-	Aye	Woodmansey	-	Aye
Siderius	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, eighty-seven Delegates voting Aye, two Delegates voting No.

PRESIDENT GRAYBILL: Eighty-seven Delegates having voted Aye and two No, the transition schedule is adopted. Now, ladies and gentlemen, you have adopted on Order of Business number six, final adoption, the preamble, the fourteen sections of the Constitution, the ballot, the adoption schedule and the transition schedule. The Chair now puts the question to you to adopt the whole Constitution package, including the

STATE PUBLISHING CO. HELENA, MONT.

preamble, the fourteen sections, the ballot, the adoption schedule, the transition schedule. So many as are in favor of that total package, vote Aye. So many as are opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Mr. Simon.

DELEGATE SIMON: Mr. Chairman, could the chairman of the drafting committee get back so he could vote? He left just a moment ago.

(Delegate Schiltz returned to the floor.)

PRESIDENT GRAYBILL: Mr. Schiltz, we are voting on the preamble, the fourteen sections, the ballot, the adoption schedule and the transition schedule as a lump. Do you want to vote?

DELEGATE SCHILTZ: Yes, I do, Mr. President.

PRESIDENT GRAYBILL: Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Take the ballot.

STATE PUBLISHING CO. HELENA, MONT.

1	Aasheim	-	Aye	Choate	-	Aye
2	Anderson, J.	-	Aye	Conover	-	Aye
3	Anderson, O.	-	Aye	Cross	-	Aye
4	Arbanas	-	Aye	Dahood	-	Absent
5	Arness	-	Absent	Davis	-	Aye
6	Aronow	-	Aye	Delaney	-	Aye
7	Artz	-	Aye	Driscoll	-	Aye
8	Ask	-	Aye	Drum	-	Absent
9	Babcock	-	Aye	Eck	-	Aye
10	Barnard	-	Aye	Erdmann	-	Aye
11	Bates	-	Aye	Eskildsen	-	Aye
12	Belcher	-	Aye	Etchart	-	Aye
13	Berg	-	Aye	Felt	-	Absent
14	Berthelson	-	Aye	Foster	-	Aye
15	Blaylock	-	Aye	Furlong	-	Aye
16	Blend	-	Aye	Garlington	-	Aye
17	Bowman	-	Aye	Gysler	-	Aye
18	Brazier	-	Aye	Habedank	-	Aye
19	Brown	-	Aye	Hanson, R. S.	-	Aye
20	Bugbee	-	Aye	Hanson, R.	-	Aye
21	Burkhardt	-	Aye	Harbaugh	-	Aye
22	Cain	-	Aye	Harlow	-	Aye
23	Campbell	-	Excused	Harper	-	Aye
24	Cate	-	Absent	Harrington	-	Aye
25	Champoux	-	Aye	Heliker	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Holland	-	Absent	Reichert	-	Absent
Jacobsen	-	Aye	Robinson	-	Aye
James	-	Aye	Roeder	-	Aye
Johnson	-	Aye	Rollins	-	Aye
Joyce	-	Aye	Romney	-	Aye
Kamhoot	-	Aye	Rygg	-	Aye
Kelleher	-	Aye	Scanlin	-	Aye
Leuthold	-	Aye	Schiltz	-	Aye
Loendorf	-	Aye	Siderius	-	Aye
Lorello	-	Absent	Simon	-	Aye
Mahoney	-	Aye	Skari	-	Aye
Mansfield	-	Aye	Sparks	-	Aye
Martin	-	Aye	Speer	-	Aye
McCarvel	-	Aye	Studer	-	Aye
McDonough	-	Aye	Sullivan	-	Aye
McKeon	-	Absent	Swanberg	-	Aye
McNeil	-	Aye	Toole	-	Aye
Melvin	-	Aye	Van Buskirk	-	Aye
Monroe	-	Aye	Vermillion	-	Aye
Murray	-	Aye	Wagner	-	Aye
Noble	-	Aye	Ward	-	Aye
Nutting	-	Aye	Warden	-	Aye
Payne	-	Aye	Wilson	-	Aye
Pemberton	-	Aye	Woodmansey	-	Aye
Rebal	-	Aye	Mr. President	-	Aye

STATE PUBLISHING CO. HELENA, MONT

CLERK HANSON: Mr. President, ninety Delegates voting Aye, no Delegates voting No.

(Applause)

PRESIDENT GRAYBILL: Very well, ninety Delegates having voted Aye and none voting No, we have adopted the Constitution. Now, we will -- the Chair, under Rule Fifty-One, hereby orders the Constitution enrolled and the enrolling will be done, and as you know, Mr. Garlington will have it ready for us to sign on Friday morning. Now, the Chair -- Friday morning at ten o'clock. Now, without objection, the Chair would like to be on Order of Business number eleven, announcements. Any objection?

Mr. Harper, do you have an objection?

DELEGATE HARPER: No. There's a song out of World War II we should have sung -- Praise the Lord, We've Passed the Constitution.

(Laughter)

PRESIDENT GRAYBILL: Well, I think that's what we have to do on June sixth, Mr. Harper, and then we'll sing. The Chair would like to announce that we will meet at nine o'clock tomorrow. There are some matters -- the report from Mr. Garlington's committee telling us how to act on Friday. There's a resolution. There are one or two minor matters; however, the Chair will attempt to avoid any lengthy debate tomorrow morning and we may be able to get out of there pretty

STATE PUBLISHING CO. HELENA, MONT.

soon, but I would like to have attendance tomorrow morning, since you are going to be paid for that day.

Mr. Murray.

DELEGATE MURRAY: Just one thing, Mr. President. I think that some of the Delegates would like to know that the Pages have taken an estimate of the number of words in the newly proposed Constitution, and we estimate approximately twelve thousand words, and that's as opposed to twenty-eight thousand in the present Constitution, some forty-three percent smaller.

PRESIDENT GRAYBILL: Now, there's one other thing. In order that you might be aware of the Friday affairs as fast as possible and before you read it in the newspapers, the Chair would like Mr. Hanson to read this news release which the select committee has put out this afternoon. It will only take a minute.

CLERK HANSON: (Reading) News Release. Ceremonial Proceedings, Montana Constitutional Convention. The final signing and sealing of the proposed new Constitution will take place in Convention Hall at ten o'clock, A.M., Friday, March twenty-fourth, 1972. The original document is to be signed by the President, attested by the Secretary, and signed in alphabetical order by the Delegates. This will be the last official session of the Convention. It will open in the usual manner with the Pledge of Allegiance to the Flag and the In-

STATE PUBLISHING CO. HELENA, MONT.

vocation which will be given by H. R. Anderson, Jr., First Presbyterian Church of Great Falls, Montana. First Vice President John Toole will preside as master of ceremonies. This is of special interest since his grandfather, John R. Toole, served as a delegate to the 1889 convention and its original document bears his signature. As a matter of general interest, the 1889 Constitution will be displayed at the signature table in the care of its official custodian, the secretary of state. A number of guests have been invited to participate in the proceedings. These include the chief executive, Governor Anderson, the chief justice, Justice Harrison, and the senior legislators of Montana, Senator Dave Manning of Hysham and Representative Thomas Haines of Missoula. Chief Old Person, who has just completed his term of service as the president of the National Congress of American Indians, will also be present. Since youth groups of Montana have taken such marked interest in the Convention proceedings, the governor of Boys State and Girls State, the president of YMCA Youth Constitutional Convention of 1972, and the chairman of university student presidents association also will participate. The Constitutional Revision Commission and the Constitutional Convention Commission, as originators and sponsors of the Convention, will be represented by Mrs. Furman (Marge) Brown of Missoula, who served in both commissions. Following a closing address by President Graybill, the original document will be

STATE PUBLISHING CO. HELENA, MONT.

signed by the officers and Delegates, after which the adjournment of the Convention sine die will occur. This date corresponds precisely with the projected last day on which the full Convention process was budgeted for. Payment out of the legislative appropriation provided for it. The proceedings will close with a Benediction given by the Most Reverend Raymond G. Hutchinson, Bishop of the Diocese of Helena. J. C. Garlington, chairman, Ceremonial Committee. (End reading)

PRESIDENT GRAYBILL: Thank you, Mr. Hanson. The Chair would also like to announce that tomorrow the much-postponed meeting of the Voter Education Committee will take place after our adjournment in the morning tomorrow. Are there other announcements for tomorrow or tonight? Oh -- I guess that's all.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President --

PRESIDENT GRAYBILL: Just a moment, Mr. Eskildsen. Mrs. Pemberton is on her feet.

DELEGATE PEMBERTON: The women Delegates who are still free are still expected in room 127 at the Colonial.

PRESIDENT GRAYBILL: Is that a discriminatory note that's creeping in here at the last minute?

(Laughter)

PRESIDENT GRAYBILL: Are you on your feet, Mrs. Sullivan.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SULLIVAN: I am, Mr. President. For the record, may I say that it's Bishop Raymond G. Hunthausen and not Hutchinson. John, only for the record.

PRESIDENT GRAYBILL: Very well. All right, now, I guess, Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, at times when we were working here I thought that maybe our alligator mouths was going to get away with our hummingbird brains, but I think we've done pretty well. With that, I move that we stand adjourned until March twenty-third, nine A.M., 1972.

PRESIDENT GRAYBILL: Very well, the motion is to adjourn until nine A.M. tomorrow. All in favor say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention adjourned at 6:40 o'clock, P.M.)

STATE PUBLISHING CO. HELENA, MONT.

MONTANA CONSTITUTIONAL CONVENTION

FIFTY-THIRD DAY

Thursday, March 23, 1972 Convention Hall

9:25 o'clock, A.M. Helena, Montana

PRESIDENT GRAYBILL: The Convention will come to order. If you'll all stand, Reverend Harper will lead us in Invocation.

DELEGATE HARPER: You know, last night as I stood in the yard of our home, looking across this town to the beautiful lighted dome of the Capitol, thrusting itself up into the darkness with its new found brilliance, I know it may sound corny to say, but I had a moment of overwhelming pride that we had been privileged to be now a real part of what this lighted dome symbolizes, and I found myself wishing that the first man and woman who lit that first tallow candle in the first sod hut on the Montana prairie could have stood here with us and maybe, as St. Paul said, they do, seeing as we are surrounded by so great a cloud of witnesses. Let's bow our heads to pray. Lord, we really do thank You that we have been privileged to share this once in a lifetime privilege and opportunity together, and now remind us that our work is never done, that freedom is never free, that we must be willing to make payment on it every day for the rest of our lives. Assure us that brotherhood and peace is not so wild a

STATE PUBLISHING CO. HELENA, MONT.

dream as those who profit by postponing it pretend, and keep us working for others as long as You worked. Amen.

PRESIDENT GRAYBILL: We will take attendance by voting Aye on the voting machines.

CLERK HANSON: Mr. President, may Delegates Bowman, Campbell and Lorello be excused this day?

PRESIDENT GRAYBILL: Bowman, Campbell and Lorello are excused.

CLERK HANSON: Delegate Blaylock, Delegate Bugbee, Delegate Dahood, Delegate Eck, Delegate Holland, Delegate Monroe, Delegate Wagner.

PRESIDENT GRAYBILL: Delegate Wagner is excused.

CLERK HANSON: Delegate Wagner excused. Delegate Holland.

PRESIDENT GRAYBILL: Very well, take the attendance.

Aasheim	- Present	Bates	- Present
Anderson, J.	- Present	Belcher	- Present
Anderson, O.	- Present	Berg	- Present
Arbanas	- Present	Berthelson	- Present
Arness	- Present	Blaylock	- Present
Aronow	- Present	Blend	- Present
Artz	- Present	Bowman	- Excused
Ask	- Present	Brazier	- Present
Babcock	- Present	Brown	- Present
Barnard	- Present	Bugbee	- Present

STATE PUBLISHING CO. HELENA, MONT.

1	Burkhardt	-	Present	Harbaugh	-	Present
2	Cain	-	Present	Harlow	-	Present
3	Campbell	-	Excused	Harper	-	Present
4	Cate	-	Present	Harrington	-	Present
5	Champoux	-	Present	Heliker	-	Present
6	Choate	-	Present	Holland	-	Absent
7	Conover	-	Present	Jacobsen	-	Present
8	Cross	-	Present	James	-	Present
9	Dahood	-	Present	Johnson	-	Present
10	Davis	-	Present	Joyce	-	Present
11	Delaney	-	Present	Kamhoot	-	Present
12	Driscoll	-	Present	Kelleher	-	Present
13	Drum	-	Present	Leuthold	-	Present
14	Eck	-	Present	Loendorf	-	Present
15	Erdmann	-	Present	Lorello	-	Excused
16	Eskildsen	-	Present	Mahoney	-	Present
17	Etchart	-	Present	Mansfield	-	Present
18	Felt	-	Present	Martin	-	Present
19	Foster	-	Present	McCarvel	-	Present
20	Furlong	-	Present	McDonough	-	Present
21	Garlington	-	Present	McKeon	-	Present
22	Gysler	-	Present	McNeil	-	Present
23	Habedank	-	Present	Melvin	-	Present
24	Hanson, R. S.	-	Present	Monroe	-	Present
25	Hanson, R.	-	Present	Murray	-	Present

STATE PUBLISHING CO. HELENA, MONT.

Noble	-	Present	Skari	-	Present
Nutting	-	Present	Sparks	-	Present
Payne	-	Present	Speer	-	Present
Pemberton	-	Present	Studer	-	Present
Rebal	-	Present	Sullivan	-	Present
Reichert	-	Present	Swanberg	-	Present
Robinson	-	Present	Toole	-	Present
Roeder	-	Present	Van Buskirk	-	Present
Rollins	-	Present	Vermillion	-	Present
Romney	-	Present	Wagner	-	Excused
Rygg	-	Present	Ward	-	Present
Scanlin	-	Present	Warden	-	Present
Schiltz	-	Present	Wilson	-	Present
Siderius	-	Present	Woodmansey	-	Present
Simon	-	Present	Mr. President	-	Present

CLERK HANSON: Mr. President, ninety-five Delegates present, four excused, one absent.

PRESIDENT GRAYBILL: Very well, the journal may so show. Order of Business number one, Reports of Standing Committees.

CLERK HANSON: Mr. President, the Committee on Style, Drafting, Transition and Submission transmits the official ballot adopted by the Convention March 22, 1972. Sincerely, John M. Schiltz, chairman, Committee on Style, Drafting, Transition and Submission.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Very well, the Style and Drafting Committee having presented the Chair with the ballot, having submitted the ballot, the Chair will submit the ballot to the Rules Committee with the instructions that it be passed on to the secretary of state for inclusion in the preparation of the ballot for the election. The Chair understands that the ballot will be printed and placed at the back of the Constitution that we are getting ready for you in printing today so you'll have a ballot form to show people. The ballot is now accepted and transmitted. Very well, Order of Business Number Two, Select Committees. Mr. Garlington, do you want to at this time discuss the proceedings tomorrow so everyone knows what we are doing?

DELEGATE GARLINGTON: I'll be very glad to, Mr. President. The Convention will convene tomorrow, not at nine o'clock but at ten o'clock, and will convene in the usual manner at that time; first, with the Pledge of Allegiance to the Flag, the Invocation, and the roll call, after which Vice President Toole will take the Chair to conduct the further proceedings. I want to inform you all that we will be invaded this afternoon by the commercial television people, who are going to establish themselves in the left hand area here in order to make their records of these final closing proceedings. After Mr. Toole takes the Chair, there will be a matter of resolutions to be handled by the body, certain telegrams and

STATE PUBLISHING CO. HELENA, MONT.

other communications to be received, and then we will get to the introduction of the guests at the signing ceremonies. These guests will include the governor, as the chief representative of the executive branch of government; the acting chief justice, it appearing to me last night that the chief himself is obligated to leave town today to be in Great Falls; and we will have as a representative of the legislative branch the oldest in point of service legislator, Mr. Tom Haines of Missoula. Senator Manning, who I think is the dean of the legislative body, told me last night about seven o'clock that he felt he would not be able to be here, so we have concluded simply to have one representative of the legislative branch. Beyond that, we are going to have the lieutenant governor of Boys State, the governor of Girls State, the president of the YMCA Constitutional Convention, which met here in Helena in January and did a very creditable job of composing a convention. In fact, I thought of putting it in as a delegate proposal at one time because I thought it was extremely well done. We will have a representative of the university student president's association. This is not quite the correct term, but you know who I mean. The chairman of that group is our clerk, John Hanson, so we will be demoting him to professional services as our Clerk since this is a regular meeting of the group, so he is bringing in one of his co-chairmen for the purposes of this occasion. We will also have Chief Old Person, who is probably

STATE PUBLISHING CO. HELENA, MONT.

the highest ranking member of the Indian culture that we have in Montana. Now, we have asked these people whom I have named to just give us, in effect, a word of greeting or a minute or two because we recognize that the limitations of time in presenting any commercial television news coverage of these proceedings just can't drag out, drag out, drag out. So, this will all proceed very rapidly. At the conclusion of the introduction of these guests -- and I must mention that Mrs. Furman Brown of Missoula happens to have served on both the Constitutional Revision Commission and the Constitutional Convention Commission, so she is going to represent both those groups from our antecedents and forbearers. Senator MacDonald was the chairman of the revision commission and he can't come. The other people who were the chairmen and vice chairmen of those groups are away somewhere, but Mrs. Brown will be here for both of them. Following the introduction of these guests and their brief comments, there will be an address to us by our President, and then we will proceed to the actual signing. The signing is going to be strictly in accordance with the rules. We are going to have that old table up there in the corner right up here in front of the rostrum. It will have on it the old original Constitution of 1889, in the custody of the secretary of state. He will be here with the Great Seal. The rule calls for the final document, which is on the typewriters right now being readied for tomorrow, to be executed

STATE PUBLISHING CO. HELENA, MONT.

by the President and attested by the Secretary. So, at this table here the President will come and sign, the Secretary will attest and affix the seal, after which the Delegates are to sign the document in alphabetical order. So, without a lot of details, since we are accustomed to alphabetical order, we will begin here with Mr. Aasheim, going right up to the table there, and following with Mr. Anderson, and right on through the list here without any formality other than our own cooperation, so that one by one we go to the table and sign the original document, which Mrs. Bowman will have there to see that you sign in the right place, and so on. We want also to have the original journal signed, so there will be a second document for each of us to sign on the table there and Mrs. Bowman will be skippering that as well. While the rest of us are at our seats, we are going to get a few more copies of just the signature page of duplicate originals of the Constitution, signed by all the Delegates. They have had practice autographing here the last three or four weeks and I am sure that won't be any additional problem, and just as a matter of historical record, we would like to have a duplicate original in the historical society here, the state library, or wherever it belongs, and perhaps one that can be in the governor's office -- that sort of thing. So we will get some duplicate originals prepared only in the signature pages because we can't do the rest of it until there is more time for the mach-

STATE PUBLISHING CO. HELENA, MONT.

ines to work at it. The highway department will be here to -- be in the hall and take little individual photographs of each of us as we sign the document, and we are hoping to arrange that the negatives of the shot of each of us can be sent to each of us afterwards so we can then do whatever we want in the way of prints or enlargements or preservation of the thing as we may prefer. We have obtained a color print of this magnificent painting up here to give to each of you as kind of a reminder of the ordeal through which you have now successfully passed, and we kind of think that that painting, plus the little photograph, will make a pretty good reminder for you of your participation in this Convention. We are working on another thought, which is to be able to obtain a full sized duplicated copy of the original Constitution to give each of you for enough of a price to reimburse the state for the cost of the duplication. We don't know just what that is, but tomorrow morning on your desk, we hope to have a little kind of order form so you can tell what the facts are about it, and either have it or not as you may wish. I think, Mr. -- then following the completion of the signing ceremonies, there will be the matter of formal adjournment, sine die, which Mr. Eskildsen will conduct, and then we will be having a final Benediction by Bishop Hunthausen and that will conclude the whole proceedings. As a guess as to time, we think that this will all certainly be accomplished by noon, and then we will be free to

STATE PUBLISHING CO. HELENA, MONT.

be on our way home. I guess I don't have any additional information to pass on at this time. Oh, the matter of signature of the document, we are going to use the sharp pointed black felt pens for uniformity and ease of reproduction, so our thought is that all of us will do it in the same manner and the secretary will be provided with a supply of those so the signatures can be in proper form on the original document. I believe that's all I have to say, Mr. Chairman.

PRESIDENT GRAYBILL: All right. Now, there may be some of you who have questions and you may want to yield, Mr. Garlington. I have a question, so that everyone understands. Do we contemplate using signature pages with lines with the names typed under them so people can easily see whose the signatures are.

DELEGATE GARLINGTON: That is our plan, yes, your honor. We are going to have them numbered and lined.

PRESIDENT GRAYBILL: Numbered and lined so that you shouldn't have too much difficulty finding where to sign. Are there other questions about tomorrow's operation that you want to ask Mr. Garlington before we go on?

Mr. Aasheim.

DELEGATE AASHEIM: Mr. Garlington, would it be possible for people to take individual pictures of each one signing? Would the aisle be open for that purpose?

DELEGATE GARLINGTON: I think the aisle will be

STATE PUBLISHING CO. HELENA, MONT.

open. I will learn this afternoon from Mr. Tallon of the highway department how he wants to set it up here so that he can take really a pretty good picture of each of us as we sign the document at the table. Our hope is not to have too many of the TV lights spoil the photography. This is quite a problem because of the glare of the lights on the lens, and he will kind of be here (illustrating). We will have the table far enough over there so that it will be easy to pass up and down the center aisle here and I think, beyond that, it's just a matter of individual skill at the photographing.

PRESIDENT GRAYBILL: Mr. Aasheim.

DELEGATE AASHEIM: I don't suppose there will be a hundred pens so that we could take the pen with us that we sign the document with.

PRESIDENT GRAYBILL: Please don't take the pen, Mags --

(Laughter)

PRESIDENT GRAYBILL: That would make it a pretty narrow signing if you're the only one that got --

(Laughter)

PRESIDENT GRAYBILL: Maybe Woodmansey might get the pen.

(Laughter)

PRESIDENT GRAYBILL: I suppose -- the highway is going to try and get individual pictures as we sign?

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE GARLINGTON: That's right.

PRESIDENT GRAYBILL: And, if necessary, I imagine either Cedar or Mrs. Bowman or maybe Mrs. Blend or Mr. Arness might trade chairs with the photographer. I would like to keep the aisle fairly clear so that people may use it to get to and from, but they might -- I'm sure these people down here would be glad to share or put an extra chair in at that point. I am asking tomorrow -- we will have as many chairs set up as possible in the foyers on each side and perhaps other places in here to get more audience in, but I'm asking tomorrow that the Delegates on the floor simply sit in their seats and not bring extra chairs into their area, for the simple reason that people will be looking at you and trying to identify you and I don't want to get the rows too badly out of line. We might make an exception to that in the case of a photographer in the front here, but let's try to keep the hundred chairs together and then we'll fill up as much as we can without too much crowding the aisles on the edge. Are there other questions?

Mr. Hanson.

DELEGATE ROBERT HANSON: Mr. President, is there any provision for the wives of the Delegates? Any particular area?

PRESIDENT GRAYBILL: No, it's first come, first served, but we want her -- we're certainly happy if they can come in and sit on the floor, and, you know, I don't mind you

STATE PUBLISHING CO. HELENA, MONT.

saving one but we haven't put out passes. Other questions?

(No response)

PRESIDENT GRAYBILL: Very well, I think that takes care of the situation. We will start tomorrow morning as promptly as possible at ten, and we will hope that everything goes well on the program. Order of Business Number Three, Communications.

CLERK HANSON: None, sir.

PRESIDENT GRAYBILL: Order of Business Number Four, Introduction.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Five, Final Consideration.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Six, Adoption.

CLERK HANSON: None.

PRESIDENT GRAYBILL: Order of Business Number Seven, Resolutions. Mr. Murray, where are you? Good morning, Mr. Murray. All right, Mr. Murray, we are going to start on seventeen. Have you got Resolution Number Seventeen? May the Clerk read it? The Clerk will read Resolution Number Seventeen.

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-1972. Resolution Number Seventeen. Date introduced, March 22, 1972. Whereas, The Montana Constitution-

STATE PUBLISHING CO. HELENA, MONT.

al Convention wishes to avoid challenges to its substantive and procedural work for violations of its rules or other technicalities; Now, Therefore, it is hereby Resolved: That the substantive work of the Montana Constitutional Convention shall not be subject to challenge on the basis of violations of Convention rules or other procedural technicalities, and for that purpose the Delegates hereby ratify and affirm each and every substantive and procedural act taken by the Convention and its officers. Introduced by Committee on Rules and Resolutions, Marshall Murray, chairman. (End reading)

PRESIDENT GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. President, I move the adoption of Resolution Number Seventeen. By way of explanation, let me say that it has been suggested to the Rules Committee that we come forth with such a resolution. Because of the turmoil in the last few days of the Convention, particularly with respect to the waiver of our rules, suspension of our rules, and particularly the matter of time, the advancement over the forty-eight hour rule, we felt that we might be exposing ourselves to the possibility of some type of legal attack, either as to those particular measures which might have been affected by the suspension of the rules or the handling of those matters perhaps under the wrong order of business, or perhaps even the entire Constitution itself, and we felt it is something that should not happen and we should not expose

STATE PUBLISHING CO. HELENA, MONT.

ourselves to that possibility. I think that the resolution is rather self-explanatory. It is the same type of action that stockholders take relative to action of directors of a corporation in almost every instance, and I see nothing difficult about it. We are simply saying that it is our intention that we should not be subject to challenge on the basis of violations of Convention rules or other procedural technicalities, and for that purpose we ratify and affirm each and every substantive and procedural act taken by the Convention and its officers, and so we relate that to our procedures under our rules. The rules are our means of operation. We do not think that any of the public should be able to take advantage of one of our rule problems, because certainly as far as anybody I have discussed this problem with have been able to tell me, we have not had a substantive problem because of our rules, so I urge the adoption of the resolution.

PRESIDENT GRAYBILL: Very well, the resolution has the effect of ratifying the acts of the Convention and its officers and indicating that we don't wish technical procedural violations to stand in the way of the Constitution. Is there discussion of the resolution?

(No response)

PRESIDENT GRAYBILL: Very well, all in favor of the resolution, please say Aye.

DELEGATES: Aye.

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: The Ayes have it and so ordered. Would you -- Mr. Clerk, would you now read Resolution Number Eighteen? Mrs. Reichert's.

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-1972. Resolution Number Eighteen. Date introduced: March 23, 1972. A resolution of the Montana Constitutional Convention to determine the Delegates' preference for a unicameral or bicameral legislature. Whereas, it is imperative that the people of Montana know the preference of the Delegates regarding the legislative structure; Whereas, the record has not clearly shown the feelings of the body. Now, Therefore, be it Resolved by the Constitutional Convention of the State of Montana: There shall be a vote on this issue. Introduced by Arlyne Reichert, Mae Nan Robinson, and George Harper. (End reading)

Mr. President.

PRESIDENT GRAYBILL: Very well, this resolution, number eighteen -- may I have a copy, Mr. Clerk? -- has been placed before the Chair for the purpose of raising this issue about the unicameral-bicameral vote. Mrs. Reichert and others are anxious to get at least the sense of the body here. If you adopt the resolution, which calls for a clear feeling -- showing of the feelings, then the Chair would, if you adopt

STATE PUBLISHING CO. HELENA, MONT.

the resolution, then the Chair would put a motion that those, say, favoring unicameral vote Aye and those favoring bicameral vote No, and we could find out how many -- what the numerical difference is, if you want to. Secondly, if you want to, I will take it by roll call but I don't care which we do. But, in any event, Mrs. Reichert's resolution has the effect of putting before this body a request that we take a vote, either a non-recorded vote or a roll call vote, either one.

Mrs. Reichert.

DELEGATE REICHERT: Mr. President, fellow Delegates, friends, when I discussed this resolution with others, I learned that my bicameral friend, Dick Nutting, had intended to submit a similar resolution. He deferred to me and therefore I am presenting this. I am very pleased to have been a part of this Constitutional Convention. The fact that in fifty-three days we have produced a document, I think is a remarkable one, and I think we have a fine document as a result of our efforts. True, we have had our disappointments, some small, some big, but nevertheless we conceived a Constitution and we're still friends. I believe that if there had been another body of fifty delegates down the hall in the senate chambers, going through the exact process simultaneously, it would have required at least one hundred and six working days taken by the last legislature to come up with any document at all. Now, I am not going to talk any longer -- maybe one more

STATE PUBLISHING CO. HELENA, MONT.

minute. I'm just going to say that the ballot is drawn up. Now is the time for the people to know how each one of us feels about this significant issue. Now, several of you have told me that you were interested in unicameral, but your constituents are not. If unicameral is to have any chance at all on the ballot, we must let the people know how we feel. I am asking those of you who would personally be willing to try the unicameral legislature at least until 1980 to please vote Aye on this resolution. Thank you. Mr. President, I would like a roll call vote.

PRESIDENT GRAYBILL: Mrs. Reichert, your request for a roll call vote stuns me for the moment. It seems to me that the sense of the resolution is that if we adopt the resolution, then the body will allow a vote to be taken and I don't think I ought to take a roll call vote on adopting it because then they would have accomplished your purpose, or at least they would have to follow themselves up on that, so the Chair would like to say that the vote, at least initially, will be oral on whether to adopt or not this resolution and if it's adopted, then the Chair would be glad to take up the problem of what you want to know, whether you want the names or whether you just want the numbers or whether you want the buttons. Now, Mr. Mahoney, do you want to discuss the motion? Or the resolution?

DELEGATE MAHONEY: Well, I'm wondering, Mr. Chairman,

STATE PUBLISHING CO. HELENA, MONT.

what we are going to accomplish here?

PRESIDENT GRAYBILL: We are really accomplishing a -- what's the word I'm looking for? -- a poll on unicameral-bicameral. She wants to know and they want to know what proportion of this hundred Delegates would like unicameral. That's what we are really accomplishing.

DELEGATE MAHONEY: Would there be -- in this question here, can anybody vote just about as they please? Or not vote? I -- if the thing were accomplishing something, Mr. Chairman, I would certainly not object but if you're just going out here to poll the Delegates maybe you could walk around with a petition or something and arrive at the same thing. To me, I just wonder, are you just trying to put a bunch of Delegates on the spot, and it don't worry me -- I'm bicameral -- but I'm just wondering if we're doing -- if this is what we're trying? I hope not, but I wonder.

PRESIDENT GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: Mr. Chairman, I would be forced not to vote on a roll call vote, but I would vote on a non-recorded vote. Thank you, Mr. Chairman.

PRESIDENT GRAYBILL: Very well, is there other discussion of the resolution?

Mr. Davis.

DELEGATE DAVIS: Mr. President, I hate to ask this, but could you have the Clerk read it again?

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Right, I'll read it again. (Reading) Whereas, it is imperative that the people of Montana know the preference of the Delegates regarding the legislative structure. Whereas, The record has not clearly shown the feelings of the body. Now, Therefore, be in Resolved by the Constitutional Convention of the State of Montana: There shall be a vote on this issue. (End reading) Now, whether it's recorded or not, we'd be glad to cross that bridge. Mrs. Reichert, you asked the Chair -- you asked the Clerk to strike the word, recorded, and you heard Mr. Scanlin. Would you be satisfied with a vote where you knew the numbers rather than the names?

DELEGATE REICHERT: Not nearly as satisfied. I would really like a roll call vote, but if it's the wishes of the body not to express themselves, if they prefer not to have the people know how they feel, it's all right with me.

PRESIDENT GRAYBILL: All right, I think the people want to know that before they vote for this resolution, so --

Mr. Harper.

DELEGATE HARPER: Yes, Mr. Chairman, I think most of you know that Delegate Dave Holland got married last night and I'd like to ask on his behalf that nobody have a call of the house.

(Laughter)

PRESIDENT GRAYBILL: Very well, we'll note that. All right, the Chair has -- is there other discussion of this

STATE PUBLISHING CO. HELENA, MONT.

matter?

Mr. Wagner.

DELEGATE WAGNER: I'd like to announce my presence, Mr. President.

PRESIDENT GRAYBILL: Mr. Wagner's presence may be announced -- shown on the journal. Very well, the Chair seeing no one up to discuss the matter, the Chair has a way that I would like to approach this. First of all, if you'll just all use your normal voices, all those that would be in favor of a recorded roll call vote, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: All those that would be against a recorded roll call vote say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: All right. Well, the sense of the body is that if we do this, it's going to be a recorded roll call, and of course you don't have to vote if you don't want to, because overwhelmingly you have suggested that. Now, the Chair will now put Mrs. Reichert's resolution. All those in favor of her resolution that there be a recorded roll call vote on this issue, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: No.

PRESIDENT GRAYBILL: The Ayes have it and we will

STATE PUBLISHING CO. HELENA, MONT.

have a recorded roll call vote. All those in favor of unicameral legislature vote Aye on the voting machine; all opposed, vote No. Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Has every Delegate voted?

(No response)

PRESIDENT GRAYBILL: Does any Delegate wish to change his vote?

(No response)

PRESIDENT GRAYBILL: Now, before the Clerk announces the vote, the greens are for unicameral and the reds are for bicameral. Does anyone wish to stand and change his vote?

(No response)

PRESIDENT GRAYBILL: Very well, announce the vote.

Aasheim	-	Nay	Babcock	-	Nay
Anderson, John	-	Nay	Barnard	-	Nay
Anderson, O.	-	Absent	Bates	-	Nay
Arbanas	-	Aye	Belcher	-	Nay
Arness	-	Aye	Berg	-	Nay
Aronow	-	Nay	Berthelson	-	Aye
Artz	-	Nay	Blaylock	-	Nay
Ask	-	Nay	Blend	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

Bowman	-	Excused	Gysler	-	Nay
Brazier	-	Nay	Habedank	-	Aye
Brown	-	Absent	Hanson, R. S.	-	Nay
Bugbee	-	Aye	Hanson, R.	-	Nay
Burkhardt	-	Aye	Harbaugh	-	Aye
Cain	-	Aye	Harlow	-	Aye
Campbell	-	Excused	Harper	-	Aye
Cate	-	Aye	Harrington	-	Aye
Champoux	-	Nay	Heliker	-	Aye
Choate	-	Aye	Holland	-	Absent
Conover	-	Aye	Jacobsen	-	Aye
Cross	-	Absent	James	-	Nay
Dahood	-	Aye	Johnson	-	Nay
Davis	-	Nay	Joyce	-	Aye
Delaney	-	Nay	Kamhoot	-	Nay
Driscoll	-	Nay	Kelleher	-	Aye
Drum	-	Nay	Leuthold	-	Aye
Eck	-	Aye	Loendorf	-	Aye
Erdmann	-	Aye	Lorello	-	Excused
Eskildsen	-	Nay	Mahoney	-	Absent
Etchart	-	Nay	Mansfield	-	Absent
Felt	-	Aye	Martin	-	Absent
Foster	-	Aye	McCarvel	-	Aye
Furlong	-	Aye	McDonough	-	Absent
Garlington	-	Aye	McKeon	-	Aye

STATE PUBLISHING CO. HELENA, MONT.

McNeil	-	Nay	Siderius	-	Nay
Melvin	-	Nay	Simon	-	Nay
Monroe	-	Aye	Skari	-	Aye
Murray	-	Aye	Sparks	-	Nay
Noble	-	Nay	Speer	-	Aye
Nutting	-	Nay	Studer	-	Nay
Payne	-	Aye	Sullivan	-	Nay
Pemberton	-	Nay	Swanberg	-	Aye
Rebal	-	Absent	Toole	-	Aye
Reichert	-	Aye	Van Buskirk	-	Absent
Robinson	-	Aye	Vermillion	-	Aye
Roeder	-	Aye	Wagner	-	Nay
Rollins	-	Aye	Ward	-	Nay
Romney	-	Aye	Warden	-	Aye
Rygg	-	Nay	Wilson	-	Nay
Scanlin	-	Absent	Woodmansey	-	Aye
Schiltz	-	Aye	Mr. President	-	Aye

CLERK HANSON: Mr. President, forty-seven Delegates voting green, thirty-nine voting red.

PRESIDENT GRAYBILL: Very well, Mrs. Reichert, I think your purpose is accomplished.

Mr. Scanlin.

DELEGATE SCANLIN: Mr. President, could I have the figure on how many abstained, or not voting?

PRESIDENT GRAYBILL: Well, you've got to add forty

STATE PUBLISHING CO. HELENA, MONT.

seven and thirty-nine -- that's eighty-eight less four -- eighty-eight, that's twelve less four -- eight abstained, roughly. Eight abstained. Well, there's four absences. Eighty-eight -- isn't that right? Or is it eighty-six. Eighty-six. All right, well, then, ten abstained. Ten abstained. Very well, will the Clerk read Resolution Nineteen?

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-1972. Resolution Number Nineteen, introduced March 23, 1972. Whereas, the Montana Constitutional Convention has met in Helena and through Convention hearings, debates and sessions adopted a proposed Constitution which must be explained and presented to the voting public for its ratification on June 6, 1972; and Whereas, Telecommunications, Inc., on behalf of the Montana Cable Television Association, has provided over twenty-five hours of Convention coverage for presentation on local and statewide cable television and has maintained personnel and equipment necessary to videotape portions of the Convention and numerous interviews with Delegates and others, and has informed the voting public. Now, Therefore, be it Resolved that the Montana Constitutional Convention hereby thank Telecommunications, Inc., for the assistance it has given the Convention in presenting the work of the Convention to the viewing audience in Montana and hereby extends the Convention's sincere appreciation and thanks to Telecommunications, Inc., for the work it has done. Introduced by Committee on Rules

STATE PUBLISHING CO. HELENA, MONT.

and Resolutions, Marshall Murray, chairman. (End reading)

Mr. President.

PRESIDENT GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Mr. President, I move the adoption of Resolution Nineteen which is self-explanatory and is merely for the purpose of thanking Telecommunications, Inc., for the assistance they have given in the cable television field.

PRESIDENT GRAYBILL: The Chair would like to say that Telecommunications, Inc., did ask us that we do this and I see nothing personally wrong with it, but you must vote on it. They have provided us with a great deal of coverage and more than normal and at some -- at great expense to themselves, and if you feel so inclined to express your thanks for the coverage they have given this Convention, here's a method of doing it, and if you don't, then vote against it. Is there discussion?

(No response)

PRESIDENT GRAYBILL: Very well, all in favor of the resolution please say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: The Ayes have it and it's adopted. Now, Order of Business Number -- there are no more

STATE PUBLISHING CO. HELENA, MONT.

motions or resolutions, are there?

Mr. Kelleher.

DELEGATE KELLEHER: Mr. Chairman, in packing my boxes of papers, I came across some thirty-two Delegate Proposals that I forgot to put in, and I wonder if the Chair has any suggestion on what I might do with them?

(Laughter)

PRESIDENT GRAYBILL: Mr. Kelleher, the Chair has two suggestions. I'm not going to mention the first one, but the second one is that you might have a little bonfire and cook some wieners this afternoon.

(Laughter)

PRESIDENT GRAYBILL: Very well, if there are no more motions or resolutions, the Chair wants to move to Order of Business Number Eight, Unfinished Business. Now, one or two of you have asked for an opportunity to say something to this Convention, and at this time I would like to start by calling on Mr. Garlington.

DELEGATE GARLINGTON: Mr. Chairman, before I give a few thoughts that have been occurring to me, I want to annouce that we have it confirmed that the highway photographer who will be here tomorrow will make the negatives available to each of us. They will be mailed to us by the office out here whenever they are finally prepared. And, now, Mr. Chairman, as we prepare to close the journal of this Convention, I think

STATE PUBLISHING CO. HELENA, MONT.

we should pause a moment to reflect upon what has happened, to reflect upon who we were at the beginning and what we have now become, where we started and where we now are. In one sense, we have finished our labors, but in a larger sense we have just begun. Ahead, I see not only the imminent task of ratification, but beyond that the more important task of leading our fellow Montanans into the reality of better government for a better society. Consider this Convention, conceived and born in partisan political strife, it has matured into thoughtful and objective concern for the rightness of things. Composed of people from every walk of life, amateurs one and all in basic constitutional doctrine, it has become soundly expert in applying proper principles with perceptive judgment. We, as individuals, have been transformed from willing volunteers to dedicated and competent students of government on a statewide basis. The endless hours of study, research, and mutual consultation, culminating in these weeks of exacting debate and decision, have developed in us all a new value which I am concerned that we neither lose nor underrate. In fact, I think it has fastened upon us a new commitment to go the next mile and make sure that our labors bear fruit. This has not come easily. This Convention bears the unmistakable imprint of expert and committed leadership, utterly devoted to the successful achievement of its goals. Where we were partisan, we are non-partisan. Where we were inflexible, we are flex-

STATE PUBLISHING CO. HELENA, MONT.

ible. Where we were hesitant, we are confident. Where we were skeptical of eachother, we enjoy mutual respect and confidence. Our debates and discussions have never been marred by angry exchange or sarcastic derision. For these good fortunes we owe a debt of great gratitude to our President, whose constant daily example in the performance of his most difficult and uncharted tasks has led us this far. The thoughtful prayers each morning for divine guidance in our work have been answered before our very eyes. And where does this leave us now? What have we really accomplished? What shall we say to the people who sent us here and paid us for this effort? Is it in our hearts to urge them one and all to approve our document? Have we been truly fair to all the varied people, groups and interests whom we were charged to safeguard and to serve? These are sobering questions, and they rise in all our minds when the pressures of listening, deciding and voting occasionally lessen. Being a firm believer in the wisdom of abiding by my principles, I tried to establish them early and adhere to them faithfully. I think I have done this, and it is time to test the result. I thought a Constitution should assure the citizen his personal freedoms. We have clearly done this by a Bill of Rights which not only has all the freedoms of the last eighty years, but includes a broad band of additional rights that will serve well in our ever more complex society. A Constitution, I thought, should assure the citizen his polit-

STATE...
PUBLISHING CO.
HELENA, MONT.

ical freedom, his right to vote, to be a candidate, to express his opinions, and to know what his government is doing to him and with him. Our personal example of totally public proceedings, and our consistent opening of all the doors and desks of government to the eyes and ears of the governed, makes this a reality in Montana. If it has been done, it can be done again and only good can flow from that process. As a cross-check, I have searched our document for a provision that sets one person or interest above another, and I find none. A good Constitution has only those fundamental structures and guidelines within which all the competing interests and pressures of society may freely move, winning or losing as their merits are tested. Our document meets this high standard. It grants no special privilege to anyone, neither does it impose any special burden. Suspicious of none, it expects the best of us all. Finally, I thought a Constitution should assure a person's future freedoms, meaning his right to try a new system, expel a bad system, devise a new solution to a new problem, and explore constantly the way to live better with government. This we have achieved. We have unshackled and energized our legislature. We have coupled authority with responsibility in our executive. We have set the stage for equality in the burden of taxation. We have launched a strong citizen force charged with finding better solutions to the almost infinite problems of education. We have provided maximum opportunity

STATE PUBLISHING CO. HELENA, MONT.

for the varied communities of Montana to govern themselves in their own way. These are only a few examples, but they are ample to prove the case. The press has described our work as middle of the road, which I suppose is to imply shortsighted timidity in our judgments. This is a vague value judgment. The truth is that most of the people are in the middle of the road, and the Constitution has to be for most of the people. It therefore should be where they are, and that it appears to be so is a sign to me it has been well done. So, I shall be happy to face the waiting voters, and I have no apologies for our document. Derived as it is from the imperfect workings of imperfect people, it certainly has its faults. No one can be completely satisfied with it. I surely am not. Like all the rest of you, my ideas have sensed the green glow of victory, and the red burn of defeat. However, I believe in the collective wisdom and decisions of this group, even above my own convictions, however deep. I think our Constitution is the finest gift to the young people of Montana that it is within our power to give. We are giving them the gift of participation in their present, and the management of their future, on a ship of state that is far more manageable and sensitive than the old one which we have had. I shall therefore be intensely proud to sign our document tomorrow. My act of signing will also be my act of commitment to do all I can to procure its ratification, and beyond that, to help whenever I can in its transition to

STATE PUBLISHING CO. HELENA, MONT.

full power and effectiveness. On a personal note, I am happy to have been numbered among you, and to have you as my friends. Our land of the shining mountains and rolling plains will be ever more dear to me from this day on. Thank you.

(Applause)

PRESIDENT GRAYBILL: Thank you, Mr. Garlington, and I'm sure you have summed up the feelings of many of us in your statement.

Mr. James.

DELEGATE JAMES: Mr. Chairman, I think I echo the thoughts of all of us right now. I think we'd all like a copy of Jim's fine work. Is the printing press still operating?

PRESIDENT GRAYBILL: Well, it's jammed but eventually we may be able to get it out, and I'm sure we should have Mr. Garlington's remarks printed whenever it is possible.

Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, from time to time we have had the pleasure of hearing that nationally known and particularly Helena known barbershop quartet, and at this time I would like to call on that bullwhacker from Powder River, Torrey Johnson, to gather his group about him and give us the joys that they have for us.

PRESIDENT GRAYBILL: Well, that certainly is unfinished business.

(Laughter)

STATE PUBLISHING CO. HELENA, MONT.

PRESIDENT GRAYBILL: Torrey, do you want to go ahead?

DELEGATE JOHNSON: Mr. Chairman and Delegates. Thank you very much, Joe, for this opportunity. I was hoping that we wouldn't lose out on one last crescendo from the Back Bench Barbershoppers. Would they start to get together here, please, while I'm spieling because when I get through, I want the timing to be just right. Now, you know, there's an old saying down in Powder River country -- Fama contada semper vivat --

PRESIDENT GRAYBILL: Mr. Johnson, would you repeat that for the record?

(Laughter)

DELEGATE JOHNSON: Fama contada semper vivat --

PRESIDENT GRAYBILL: O.K.

DELEGATE JOHNSON: That means, may their musical fame last forever.

(Laughter)

DELEGATE JOHNSON: I give you the Back Bench Barbershoppers.

(Whereupon, Delegates Conover, Harper, Ward, Champoux, Scanlin and Johnson delivered vocal renditions of "Springtime in the Rockies" and a Happy Birthday salute to Delegate Bob Vermillion.)

(Applause)

PRESIDENT GRAYBILL: Back Benchers, would you sing

STATE PUBLISHING CO. HELENA, MONT.

a verse of that for Eskildsen? He's over the hump today, too.

(Whereupon, a chorus of Happy Birthday to Delegate Eskildsen was rendered.)

(Applause)

DELEGATE HARPER: Mr. Chairman, it's great, after all of these days, day by day, with Joe getting up and saying, that we beg leave to rise and set again, this is what we've hatched.

(Laughter)

(The Back Bench Barbershoppers concluded with their rendition of "Old Mill Stream" and parody thereon.)

(Applause)

PRESIDENT GRAYBILL: Well, we want to thank you Back Benchers, and you know, they say no constitutional document should be perfect, and you fit right in.

(Laughter)

PRESIDENT GRAYBILL: Mrs. Cross.

DELEGATE CROSS: Mr. Chairman, for a point of information, would Mr. Johnson yield to a question?

PRESIDENT GRAYBILL: Mr. Johnson, will you yield?

DELEGATE JOHNSON: It scares me to death, but I will.

DELEGATE CROSS: Mr. Johnson, where did you learn your Latin?

STATE PUBLISHING CO. HELENA, MONT.

(Laughter)

DELEGATE JOHNSON: Well, now, Louise, I'm glad you asked me that.

(Laughter)

DELEGATE JOHNSON: Actually, you know, I was born up in the Wolf Mountains in a little log cabin I helped my Daddy build --

(Laughter)

DELEGATE JOHNSON: -- and before I was ten years old, there was an old fellow there that had escaped from the Jesuits and he lived as a recluse, way back in the hills there, and he taught me everything I know.

(Laughter)

PRESIDENT GRAYBILL: Mr. Davis.

DELEGATE DAVIS: In view of the test that was made on the unicameral, I want to make one more effort. Will Miss Sparks yield?

(Laughter)

PRESIDENT GRAYBILL: Mr. Murray.

DELEGATE MURRAY: Just for the record, Mr. President, the journal should show that Miss Sparks shook her head and responded No -- silently.

(Laughter)

PRESIDENT GRAYBILL: Mrs. Pemberton.

DELEGATE PEMBERTON: Just for the record, Mr. Pres-

STATE PUBLISHING CO. HELENA, MONT.

ident, we'd like you to know that women don't talk too much.

PRESIDENT GRAYBILL: Mr. Harper.

DELEGATE HARPER: Just for the record, I think we probably all will agree that it is not only she who has said no words who hasn't said anything on this floor.

(Laughter)

PRESIDENT GRAYBILL: Mr. Mahoney would like to follow that.

DELEGATE MAHONEY: I'm going back to the more serious side of this, and I don't blame you for not speaking. I think that's marvelous. First, I want to congratulate these women on this floor. I think you have done a marvelous job and there never has been any better in the legislature, and a lot of them, I don't think, as good as you women have done here on this floor. It has been a great pleasure to see this many women and I know in our future legislatures we are going to have a lot more like you, and I want to say congratulations to a job well done on you ladies. I think you have done a marvelous job. You've asked no odds, you've asked no edge. You have taken it right on this floor and I certainly admire it. Number two. You know, we got in here one day and we had two motions to move the previous question and we discussed it and that motion hasn't been made during this whole Convention since. I think this is marvelous that you didn't, at these times of debate stand out here and then immediately try to

STATE PUBLISHING CO. HELENA, MONT.

shut off debate. You listened to everybody. You've set here and I have watched the legislature a good many times. So, I want to congratulate the body on that. Mr. Chairman, you have done a marvelous job of presiding. I think you've had a lot of patience. I don't think I would have had patience all the time that you have. I haven't agreed with all your rulings but they have been fair, and I want you to know that. I think it's been marvelous. I'll never -- there will never be another hundred people get together and take their differences and stand up and fight toe-to-toe any better than this hundred people have done here, and you have no comparison in any legislatures that I have known. There's less bitterness. There has been less of that. Maybe this is caused by the seating. Maybe -- I think maybe this wasn't a bad idea. You get all the groups on one side and that, and then they don't get to talking on the other side. I'm in hopes the next sessions of legislatures will go to a alphabetical type of seating. I think it gives you much more independence, and especially a person like me who has always been independent anyway, even including this Convention. I'll tell you this. I am signing the Constitution tomorrow even if I did vote five times No yesterday. Mr. Monroe got away from me yesterday afternoon. He's got six. I've only got five votes against the Constitution. I don't agree with everything that Delegate Garlington has said. I'm going out, and I'm going to tell you, I'm

STATE PUBLISHING CO. HELENA, MONT.

going to explain the Constitution. I want that understood. I am going to explain it and give both sides of it and I'm not going to tell them how to vote. This I'm going to do. But, thanks again for treating me as nice as you have, and I certainly appreciate it. Thank you.

(Applause)

PRESIDENT GRAYBILL: Mr. Monroe.

DELEGATE MONROE: I just wanted to follow Mr. Mahoney and say that I am going to sign the Constitution, too, and I'll work hard for its adoption.

(Applause)

PRESIDENT GRAYBILL: Mr. Rollins.

DELEGATE ROLLINS: Mr. Chairman, I have been accused of being fond of quoting Shakespeare, and I am. I have thought at times that what we have done here has been Much Ado about Nothing. Sometimes I've felt it was a Comedy of Errors. I've even worried sometimes that it was Twelfth Night, but now, Mr. Chairman, I'm proud to conclude that All's Well That Ends Well.

(Applause)

PRESIDENT GRAYBILL: Lucile Speer.

DELEGATE SPEER: Thank you, Mr. Chairman -- Mr. President, now. This is a serious matter. I just wish to make clear for the record that I am single. I tried to correct both the Chair and the Delegates for the first two weeks and

STATS PUBLISHING CO. HELENA, MONT. 3

then I thought when we got into substantive issues, perhaps this was not something that I should quibble about. But, I think it has been a matter of discrimination, that I should have taken it to the Bill of Rights, and I hope the record will show that I am Miss Speer.

(Laughter)

PRESIDENT GRAYBILL: The journal may show it as Ms.

(Laughter)

PRESIDENT GRAYBILL: Mrs. Mansfield.

DELEGATE MANSFIELD: Mr. President, next to God, my country, family and friends, this has been the greatest experience of my life and I know we have been one family and will look to the future with fondness on these members. Thank you, Mr. Chairman.

(Applause)

PRESIDENT GRAYBILL: Mr. Champoux.

DELEGATE CHAMPOUX: First of all, I want to take this opportunity to thank you all for putting up with me. Now, we heard a lot about Studer's eagles, Lorello's pigeons, Harper's piccolos, but Champoux has been the only lonely duck in this Convention.

(Laughter)

DELEGATE CHAMPOUX: Now, here I stand, Chief Little Duck. My feathers are fringed, my rear end is full of buckshot.

STATE PUBLISHING CO. HELENA, MONT.

I have damned few eagle feathers, but I'm still flying.

(Applause)

PRESIDENT GRAYBILL: Mr. Scanlin.

DELEGATE SCANLIN: Mr. President, being probably the only native born maniac, having a birth certificate from Bangor, Maine, I am sure I have a voting record to prove the point.

(Laughter)

PRESIDENT GRAYBILL: Now, the Chair wishes the journal to show in a little more formal manner than Mr. Harper made the announcement, that apparently Dave Holland did get married yesterday, and we are going to try and get him back for the signing, and I think we all want to wish Dave well. And, if this report is correct, which I'm sure it is, I'm sure we are all happy for Dave and would want the record to so show. Very well. Mr. Rebal, where is your Lincoln Continental parked now?

(Laughter)

DELEGATE REBAL: The Governor was more gracious than you.

(Laughter)

PRESIDENT GRAYBILL: Don, he just hasn't been here as much.

(Laughter)

DELEGATE REBAL: Well, I'd like the record to show

STATE PUBLISHING CO. HELENA, MONT.

that Dave Holland missed his handball match yesterday.

(Laughter)

PRESIDENT GRAYBILL: Very well, unless there is other unfinished business, we'll move on to announcements. We will move on, without objection, to Order of Business Number Eleven, Announcements, and Mr. Toole has an announcement.

DELEGATE TOOLE: Mr. Chairman, a meeting of the Administrative Committee at eight-fifteen in the Rules Committee room tomorrow morning.

PRESIDENT GRAYBILL: That's eight-fifteen tomorrow morning for the Administration Committee in the Rules Committee room here. That's an important but short meeting.

Mrs. Warden.

DELEGATE WARDEN: I would just like to thank everybody that has helped the Public Information Committee. I think this has been great. And, I would also like to say that sometime today on your desk will be a report. I hope that some of the ideas that are in this report can be used by the Delegates when they go home because they are kind of a compilation of all the things that we have done here. And, again, thank you so much for your support.

PRESIDENT GRAYBILL: Mr. Rygg.

DELEGATE RYGG: I'd like to announce the last rendezvous of the Mitchell Gang in room 437 immediately on recess.

PRESIDENT GRAYBILL: The Mitchell Gang, eh? O.K.

STATE ... PUBLISHING CO. HELENA, MONT.

Mr. Murray.

DELEGATE MURRAY: Before I call the last Rules Committee meeting, I would like to discuss a little communication I received from the Laurel bard. It reads: The silver haired barrister, he sat and he smiled. His laugh was infectious, his temper mild. He checked all the chicks with a practiced eye, but because of the rules, he refrained with a sigh.

(Laughter)

DELEGATE MURRAY: Then, I received another. This one is significant: Leo, the lion, he pulled and he pushed. He hammered and gaveled until he was bushed. But, he got us to finish. The compact's complete. Graybill has triumphed, there will be no retreat.

(Laughter - Applause)

PRESIDENT GRAYBILL: Where were all these authors when we needed language on the ballot yesterday?

(Laughter)

DELEGATE MURRAY: Mr. President, he was on Style and he has practiced a little and gotten better as we've gone along. Rules Committee immediately on adjournment in the Rules Committee room.

PRESIDENT GRAYBILL: Very well, other committee meetings?

Mr. Martin.

DELEGATE MARTIN: Mr. Chairman, the other day Rod

STATE PUBLISHING CO. HELENA, MONT.

Hanson read a statement from Benjamin Franklin and we have it which will be distributed to the desks some time by the Pages today. And, one other thing, I have been trying to gather up some opinions from the Delegates and I have, I think, all but eight. Will those eight -- and I wish I could be a shepherd like George here, and ask, but would those eight kind of -- let me have their answers?

PRESIDENT GRAYBILL: Is that the unanswered eight? All right.

Mr. Romney.

DELEGATE ROMNEY: Mr. President, Delegates who have been participating in this project brown envelope, I wish that whoever has it would get it back to desk eighty-one upon adjournment. I also, Mr. Chairman, wish to point out one thing that has perhaps escaped many of you as you looked and signed these little booklets. Never in all my born days did I ever see so many young people.

(Laughter)

PRESIDENT GRAYBILL: Mrs. Van Buskirk.

DELEGATE VAN BUSKIRK: Now that we have worked together for the past two months, I was wondering if the group here would be in favor of having any group reunion?

PRESIDENT GRAYBILL: Mrs. Van Buskirk, this subject has come up and we will be taking care of it later but not before the election. I might say, in reference to Mr. Romney's

STATE PUBLISHING CO. HELENA, MONT.

remarks, that if we haven't learned anything else at this Convention, we've learned how to write our names.

(Laughter)

PRESIDENT GRAYBILL: Very well, Mr. Brown, you had an announcement.

DELEGATE BROWN: Well, I am rising on behalf of Delegate Sparks. She would like to correct the President, and in spite of what happened to Dave Holland, she is still Miss Sparks, and she didn't say No yesterday, she just shook her head -- unless she wants to yield and speak for herself. She's still shaking.

(Laughter)

PRESIDENT GRAYBILL: Very well.

Mrs. Warden.

DELEGATE WARDEN: Mr. President, are you going to make the announcement about the Voter Education Committee?

PRESIDENT GRAYBILL: Yes, I've got that down here yet.

Mrs. Babcock.

DELEGATE BABCOCK: Mr. President, I would like to, on behalf of the city of Helena and on behalf of the Colonial Club, thank all of you for being in Helena and for the wonderful things you have done for the Colonial, and it's just been great to have you all here.

PRESIDENT GRAYBILL: All right, Mr. Siderius.

STATE PUBLISHING CO. HELENA, MONT.

DELEGATE SIDERIUS: Mr. Chairman, I'd like to make one announcement. Being that this is all through now, why, I guess I can make it. No more pencils, no more books, no more Delegates' crosseyed looks.

(Laughter)

PRESIDENT GRAYBILL: Mr. James.

DELEGATE JAMES: Mr. President, fellow Delegates, and the people of Helena. I'd really like to -- Betty made me think of this -- thank all the people of Helena and especially the tolerant police force for their attitude toward the Delegates and their hospitality. It has been a great experience.

PRESIDENT GRAYBILL: Very well. Now, I have an announcement from Ray Loman, the sergeant-at-arms. The Delegates can turn in their desk and locker keys to the sergeant's office and also the black ring binders belonging to the House can be returned to the sergeant's office. If you have envelopes for your keys, if you still have them in your desk drawers, he would like the keys in the envelope. If not, I guess you can put them in one of the regular envelopes. He also has some cardboard boxes available to help you out. Mr. Hanson informs me that the post office keys should be returned to the post office. The printing clerk, Jean Fallon, has asked me to announce that really there isn't any printing available today. The presses are running as fast as possible, trying to get out

STATE PUBLISHING CO. HELENA, MONT.

five thousand copies of the Constitution and five thousand copies of the information sheet which will help you Delegates discuss the Constitution intelligently, and when that's through, the leadership has three or four matters piled up, such as the copy of the official Constitution that Mr. Garlington referred to, and two or three other things, so we'd rather that you did not expect or ask the printing department to print for you today.

Mr. Blaylock.

DELEGATE BLAYLOCK: Mr. President, I have already had a request about these Constitutions. How much will they cost?

PRESIDENT GRAYBILL: I don't think we know, and if we can get them printed, which we'll find out today, we'll try and get a little order blank on your desk tomorrow that you can fill out. We may have to send them to you later.

DELEGATE BLAYLOCK: I have a request, Mr. President, for as many as a thousand copies.

PRESIDENT GRAYBILL: Well, you understand that we are going to supply every Delegate tomorrow with fifty copies of the Constitution and we will continue to print and have available in the Constitutional Convention office here a lot of copies of the Constitution; as long as they are not being wasted we don't mind printing them. We are going to print, I think, ten thousand copies and have five thousand that we are

STATE PUBLISHING CO. HELENA, MONT.

going to give you tomorrow, but we just can't get that many through the print shop. As I told you the other day, a hundred is nothing but a hundred and sixty thousand sheets is a lot and it takes some time. So, both the -- the one that we are going to give you to take home is going to be single spaced but the one that Mr. Garlington is talking about would be a printed copy with the signatures on it of the copy that we are signing tomorrow of the official Constitution, and if we can work it out, we are going to try and print that, too, and if you want that, we may want you to defer the cost of that which I think would not be great. Now, let's see, the next announcement I have is that the Voter Education Committee will meet at eleven o'clock. I think that probably we'd better meet in the Legislative Committee room on the fourth floor behind the Convention Hall. The Voter Education Committee at eleven o'clock. Now, some of what you've seen this afternoon is but a mild prelude to the frivolity that will take place at the Delegates' dinner tonight, so please get your reservations in for the Delegates' dinner if they are not already in. And, I don't even know what time it starts -- six-thirty, I believe -- six-thirty the drinking begins and dinner will be afterwards --

(Laughter)

PRESIDENT GRAYBILL: Well, now, wait a minute. I guess I don't want to put that restriction on this body this

STATE PUBLISHING CO. HELENA, MONT.

afternoon.

(Laughter)

PRESIDENT GRAYBILL: Mr. Davis, you'd like to move to start earlier?

(Laughter)

DELEGATE DAVIS: At least I'd like to get a roll call vote on it.

(Laughter)

DELEGATE DAVIS: Mr. President, on the side, it occurs to me that we may not have an opportunity tomorrow, but I think that it might be appropriate to give a round of applause and express for the record our appreciation for our chief clerk, our journal clerk, and Marie and our sergeant-at-arms, and all the people here in Helena at the Capitol for all the courtesies they have extended us in their research. We are now about at the end of the thing, really evaluating and realizing what a tremendous job a lot of people have done toward making this Commission a success, or this Convention a success, for the last two or three years in research and everything else, but I would like to give a big hand to all these folks up here -- to John and the ladies and Marie and the sergeant-at-arms and all the rest of the people here at the Capitol for all their help.

(Applause)

PRESIDENT GRAYBILL: Now, Mr. Davis, for your info-

STATE PUBLISHING CO. HELENA, MONT.

ation, we will include in the record tomorrow in the formal ceremony a resolution which will formally memorialize them, but I think your personal expression of opinion is echoed by all the Delegates and I'm sure we all deeply appreciate the work that our crew has done here and I personally want to thank each of them. We have had a marvelous group and a marvelous working relationship and I appreciate it.

Mr. Hanson.

DELEGATE ROBERT HANSON: Mr. President, I'd like to add to what Carl just said, and many of us have worked with Frank Morgan in the printing department but there are many, many that haven't, and I think that Frank and his crew should be included in that, because I feel that he has done a real good job and gotten the work of the Convention out in very good shape.

PRESIDENT GRAYBILL: Very well.

Mr. Brown.

DELEGATE BROWN: Mr. Chairman, Marie gets paid by the page and she has asked me to thank Carl Davis for his past services.

(Laughter)

PRESIDENT GRAYBILL: Mr. Eskildsen.

DELEGATE ESKILDSEN: Mr. President, I assume we are all through, so I'll --

PRESIDENT GRAYBILL: Well, let's see, is there any-

STATE PUBLISHING CO. HELENA, MONT.

one else who wishes to make an announcement?

(No response)

PRESIDENT GRAYBILL: Very well, Mr. Eskildsen, it's all yours.

DELEGATE ESKILDSEN: Mr. President, I move we stand adjourned until March twenty-fourth, ten A.M., 1972.

PRESIDENT GRAYBILL: Before the Chair puts that motion, the office has just phoned in the last announcement. If there are any address changes from the directory, from the blue directory, please notify Mel McGuinn before you leave here because we're going to have a lot of mailing to do to you, so if there are any address changes, Mel wants to know that before you leave. Very well, all in favor of adjourning until ten A.M., tomorrow morning, say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: So ordered.

(Convention adjourned at 10:40 o'clock, A.M.)

STATE PUBLISHING CO. HELENA, MONT.

MONTANA CONSTITUTIONAL CONVENTION

FIFTY-FOURTH DAY

Friday, March 24, 1972 — Convention Hall

10:00 o'clock, A.M. — Helena, Montana

PRESIDENT GRAYBILL: The Convention will be in order. The Convention will be in order. First of all, I would like to welcome all of our friends who are here this morning for the final session of the Montana Constitutional Convention. I want to get started. I'm sure it's going to get hot in here before we get finished, and we would like to get going, so if we are all ready, I would like to first call upon Reverend H. R. Anderson, Jr., of the First Presbyterian Church of Great Falls, Montana, who will lead us in Invocation. Will you please stand.

REVEREND ANDERSON: Let us pray. O God, by whose good purpose and will, men have been granted authority and power in human affairs, we begin this ceremony by expressing our gratitude to You for all that has brought us to this significant hour. We thank You for the privileges and responsibilities given these Delegates in their election, for their ability to discuss, debate and decide the issues brought before them, for the humility to listen and the courage to rethink, and above all, for the mutual accord that has brought this new document into being. Grant, O God, that the citizens

STATE PUBLISHING CO. HELENA, MONT.

of this state may give this document their highest and wisest consideration, that the future of this state may be enriched and enhanced, to Your Glory and the welfare and benefit of us all, through Jesus Christ, our Lord, we pray. Amen.

PRESIDENT GRAYBILL: Very well, if you will remain standing, I would like to ask Delegate Cedor Aronow to lead us in the Pledge of Allegiance.

Mr. Aronow.

(Delegate Aronow led the Convention and guests in the Pledge of Allegiance to the Flag.)

PRESIDENT GRAYBILL: Very well, as usual, we will take roll by voting Aye on the voting machines. Will the Delegates please vote Aye on the voting machines? Very well, cast the ballot.

Aasheim	-	Present	Bates	-	Present
Anderson, J.	-	Present	Belcher	-	Present
Anderson, O.	-	Present	Berg	-	Present
Arbanas	-	Present	Berthelson	-	Present
Arness	-	Present	Blaylock	-	Present
Aronow	-	Present	Blend	-	Present
Artz	-	Present	Bowman	-	Present
Ask	-	Present	Brazier	-	Present
Babcock	-	Present	Brown	-	Present
Barnard	-	Present	Bugbee	-	Present

STATE PUBLISHING CO. HELENA, MONT.

1	Burkhardt	-	Present	Harbaugh	-	Present
2	Cain	-	Present	Harlow	-	Present
3	Campbell	-	Present	Harper	-	Present
4	Cate	-	Present	Harrington	-	Present
5	Champoux	-	Present	Heliker	-	Present
6	Choate	-	Present	Holland	-	Present
7	Conover	-	Present	Jacobsen	-	Present
8	Cross	-	Present	James	-	Present
9	Dahood	-	Present	Johnson	-	Present
10	Davis	-	Present	Joyce	-	Present
11	Delaney	-	Present	Kamhoot	-	Present
12	Driscoll	-	Present	Kelleher	-	Present
13	Drum	-	Present	Leuthold	-	Present
14	Eck	-	Present	Loendorf	-	Present
15	Erdmann	-	Present	Lorello	-	Present
16	Eskildsen	-	Present	Mahoney	-	Present
17	Etchart	-	Present	Mansfield	-	Present
18	Felt	-	Present	Martin	-	Present
19	Foster	-	Present	McCarvel	-	Present
20	Furlong	-	Present	McDonough	-	Present
21	Garlington	-	Present	McKeon	-	Present
22	Gysler	-	Present	McNeil	-	Present
23	Habedank	-	Present	Melvin	-	Present
24	Hanson, R. S.	-	Present	Monroe	-	Present
25	Hanson, R.	-	Present	Murray	-	Present

STATE
PUBLISHING CO.
HELENA, MONT.

Noble	-	Present	Skari	-	Present
Nutting	-	Present	Sparks	-	Present
Payne	-	Present	Speer	-	Present
Pemberton	-	Present	Studer	-	Present
Rebal	-	Present	Sullivan	-	Present
Reichert	-	Present	Swanberg	-	Present
Robinson	-	Present	Toole	-	Present
Roeder	-	Present	Van Buskirk	-	Present
Rollins	-	Present	Vermillion	-	Present
Romney	-	Present	Wagner	-	Present
Rygg	-	Present	Ward	-	Present
Scanlin	-	Present	Warden	-	Present
Schiltz	-	Present	Wilson	-	Present
Siderius	-	Present	Woodmansey	-	Present
Simon	-	Present	Mr. President	-	Present

CLERK HANSON: Mr. President, one hundred Delegates present.

PRESIDENT GRAYBILL: Very well, the journal may so show. At this time, without objection, the Chair would like this Convention to be on Order of Business Number Seven, motions and resolutions. Is there objection?

(No response)

PRESIDENT GRAYBILL: Very well. At this time I would like to call on Vice President Toole to take the Chair. Mr. Toole.

STATE PUBLISHING CO. HELENA, MONT.

VICE PRESIDENT TOOLE: Thank you, Mr. President. Order of Business Number Seven, Motions and Resolutions. The Clerk has a resolution to read, I believe.

CLERK HANSON: (Reading) Montana Constitutional Convention, 1971-1972. Resolution Number Twenty, introduced March 24, 1972. A resolution paying tribute to the employees and interns of the Convention. Whereas, as the Montana Constitutional Convention concludes, it is fitting for the membership to review the weeks of deliberation and assess accomplishments. Whereas, we find the fruits of our labor good and commend the proposed Constitution to all Montanans. Whereas, no summary of the Convention's accomplishments would be adequate without an accolade acknowledging the staff's dedicated work. Whereas, in recognition of the contributions of this nonpariel staff, it is hereby Resolved that a lasting tribute to the following Convention employees be spread upon the Convention journal. Research coordinator, Dale A. Harris. Research Analysts: Bill of Rights, Rick Applegate; Legislative, Rich Bechtel; Executive, Karen Beck; Judiciary, Sandra Muckelston, Local Government, Jerry Holloron; Revenue and Finance, Roger Barber; Education and Public Lands, Bruce Sievers; Public Health, Welfare and Labor, Dick Spall; Natural Resources and Agriculture, Chuck Sullivan; General Government and Constitutional Amendment, Jim Grady. Key Personnel: Style and Drafting, Gardner Cromwell; Research Coordinator, Diana Dowling;

STATE PUBLISHING CO. HELENA, MONT.

Committee Coordinator, Max Baucus; Public Information Director Elizabeth Harrison; Chief Clerk, John Hanson; Printing Clerk, Jean Fallan; Bookkeeper, Al Brown; Chief Steno, Betty Jakovac; Librarian, Juanita Fontana. Steno Pool: Assistant Steno, Eve Seeley; MTST Typist, Gail Smith; MTST Typist, Jane Brown Jones, MTST Typist, Dee Christiansen; MTST Typist, Janice Saeman; Typist-Steno, Jean Geier; Typist-Steno, Ellen Reid; Typist-Steno, Mary Kunnary; Typist-Steno, Louise Sullivan; Typist-Steno, Bernice Jacobson; Typist-Steno, Douglas Easton; Typist-Steno, Louise Fulbright; Typist-Steno, Terry Sather. Others: Journal Clerk, Rosemary Acher; Assistant Journal Clerk, Rosella Wilson; Journal Typist, Beverly Hilger; Sergeant-at-Arms, Ray Loman; Supply Clerk, Warren Neyenhuis; Reading Clerk, Ed Smith. Committee Secretaries: Bill of Rights, Darlene Corbin; Legislative, Judy Pratt, Executive, Barbara Lester; Judiciary, Ellen McCarthy; Local Government, Pat Romine; Revenue and Finance, Karen Holliday; Education and Public Lands, Sally Watson; Public Health, Welfare and Labor, Sylvia Kinsey; Natural Resources and Agriculture, Elaine Rung; General Government and Constitutional Amendment, Bobby Murphy. Other Secretaries: President, Roberta Moody; Vice President, Melba McGuinn; Executive Director, Bartley Carson; Floor Leaders and Rules Committee, Alice Berner; Public Information Secretary, Patricia Tyanich; Typist, Sue Phillips, Media, Mary Holt; Style and Drafting, Elizabeth Nelson; Secretary to Clerk,

STATE PUBLISHING CO. HELENA, MONT.

Karen Kelly; Eastern and Western District Vice Presidents and Secretary, Dorothy ZurMuehlen. Duplicating: Frank Morgan, Beulah Walter, Elizabeth Vollertson, Patricia Warfield, Arnold Opitz, David Rodgers, David West, Frances Warner, Margaret Waddell, Vivian Sherwood, Michael Weber, Edward Perkl. Mail Room: Bill Thompson, Isabel Creighton, Lucille Reiner. Interns: Mark Bowlds, Robert J. Buzzas, Maureen Callahan, Pat Chvatal, John F. Crawford, Holly Darlington, Mona J. Earley, Gary Graham, Randall Gray, Kandice J. Hauf, Kayle Jackson, Lee-Ann Jersey, Blake Johnson, Steve Jones, Kurt Krueger, Michael Larum, Dodge Leary, Nancy Lien, George Mahoney, John Murphy, George Paul, Ray Perryman, Jeffrey K. Rupp, Edwin Shannon, Robert Skaggs, Kathleen Sullivan, Don Walchuk.

Mr. Vice President, Resolution Number Twenty.

VICE PRESIDENT TOOLE: Mr. Murray.

DELEGATE MURRAY: Mr. Vice President, I move that Resolution Number Twenty be adopted.

VICE PRESIDENT TOOLE: Members of the Committee, you have heard the resolution that the -- the motion that the resolution be adopted. All in favor say Aye.

DELEGATES: Aye.

VICE PRESIDENT TOOLE: Opposed, No.

DELEGATES: (No audible response)

VICE PRESIDENT TOOLE: Motion carried. There being no objection, we will now move to Order of Business Number

STATE PUBLISHING CO. HELENA, MONT.

Three, Communications.

CLERK HANSON: (Reading) March 23, 1972. Constitutional Convention, State Capitol, Helena, Montana. My compliments to Delegates at the Constitutional Convention, staff and advisors, in completing the arduous and difficult task of reviewing and recommending revisions in Montana's Constitution. The people of Montana have demonstrated an interest in updating their state governmental process and the work you have done at the Convention will be a major step forward in enabling the state of Montana to meet its responsibilities in a time of complex and difficult issues. While I have not seen the final document, I am impressed with the spirit of unity and non-partisan nature of your deliberations. Congratulations and my personal regards to all on this momentous occasion. Regards, Mike Mansfield, Majority Leader, U. S. Senate. (End reading)

(Applause)

CLERK HANSON: (Reading) March twenty-third, Leo Graybill, President, Montana Constitutional Convention, Helena, Montana. As you conclude your efforts, please relay my personal regards and congratulations to the Delegates to the Montana Constitutional Convention for a difficult job well done. Generations to come will benefit from your diligence and devotion to the best interests of the public we serve. Sincerely, Lee Metcalf. (End reading)

(Applause)

STATE PUBLISHING CO. HELENA, MONT.

CLERK HANSON: (Reading) March twenty-second. Leo Graybill, Jr., Montana Constitutional Convention, Helena, Montana. On the occasion of the closing of the Montana Constitutional Convention, I would like to take this opportunity to commend each of the Delegates for their efforts on behalf of the people of Montana. Their initiative and responsive attitude for the laws of our state is greatly appreciated. Sincerely, Richard Shoup. (End reading)

(Applause)

VICE PRESIDENT TOOLE: If there is no objection, we will move now to Order of Business Number Nine, Special Orders, and members of the Convention, distinguished guests, we have a gentleman with us who has come a long way to attend these ceremonies, and we appreciate it, and it gives me great pleasure to introduce to you at this time, the Chief Executive of the State of Montana, His Excellency, Forrest Anderson.

(Applause)

GOVERNOR ANDERSON: Thank you very much. Mr. Chairman, distinguished members of the Constitutional Convention, this historic Convention was a session of only two months and in this abbreviated space of time, you have attempted to decide the great issues of Montana, now and for the future. You have thought and you have argued and you have compromised, and now the result of your efforts, this new Constitution, belongs to the people of Montana. If you had the courage to make the

STATE PUBLISHING CO. HELENA, MONT.

changes that were necessary and the wisdom to avoid those that were not, Montanans will approve this Constitution. If the public interest was faithfully represented in your deliberations, Montana will approve this Constitution. And, if you have provided for the protection of the rights of individuals without placing unnecessary restrictions on government, Montana will approve the Constitution. I have not had an opportunity to study your work in its total, and thus, I don't want to comment at this time, but I know, having been in the Capitol and having watched you, you have worked hard and I want to compliment every member of this august body because you have done, in my judgment, that job which you were sent here to do. Your work, however, is not over. If I am correct, my judgment directs that you and all of us must between now and June the sixth sell this document to the people of Montana. You must sell this document the same way that I sold to the people of Montana the Montana Executive Reorganization Act. It was a tough job but it was a good result, and I know you've had a tough job and I think you have done a good job and I hope that you will go out and sell the efforts that you have used so extensively here, namely, a new Constitution, so that we can start a new era in this great state. During this Convention, you have received intense coverage in the news media, and I imagine that there are many Delegates who now consider them politicians -- consider themselves politicians. I assure you

STATE PUBLISHING CO. HELENA, MONT.

that if you, as Delegates, attempt to use this Convention to further your immediate political ambitions, the efforts that you have made here will in my judgment be destroyed, and chances for public approval of this document, a major document, will diminish in relation to the number who place personal considerations ahead of the sale of this Constitution. I ask you to go out and sell it. I think you've done a good job, and forget the politics for now. Let's get Montana moving forward. That was what you were sent down here to do and I think up to now you have done a good job, and I hope -- I truly hope that you continue to do a good job, and anyplace, any time, anywhere where you find it necessary or advisable to call upon the Chief Executive to help you in the sale of this instrument to the people of Montana, please feel free to call on me. I will do everything I can on your behalf and on behalf of the people of the state. Thank you very much, and God bless you.

(Applause)

VICE PRESIDENT TOOLE: Members of the Convention and guests, it gives me great pleasure at this time to introduce to you an old friend and one known to all of you, the acting Chief Justice of the State of Montana, the Honorable John C. Harrison.

(Applause)

ACTING CHIEF JUSTICE HARRISON: Mr. Chairman, members of this historic Constitutional Convention, I want to tell you

STATE PUBLISHING CO. HELENA, MONT.

how delighted I am to be here to represent the supreme court on this occasion. I must admit that it's with some surprise, in view of what I have read in the papers for the past several months, and particularly this morning's paper -- and a temptation to use these few minutes in rebuttal is great, inasmuch as I have you all here -- but that we will not do. I am sure that if this document is approved by the state of Montana -- the people of the state of Montana -- there will be much occasion to use the supreme court in the years ahead. God bless you and have a safe trip home.

(Applause)

VICE PRESIDENT TOOLE: Thank you, Justice Harrison. We have with us this morning, members of the Convention and guests, a gentleman who drove two hundred plus miles to be with us, the senior senator of the state senate of Montana. He has been in these halls frequently during the past few weeks, not lobbying -- observing and taking a profound interest in our proceedings. It gives me great pleasure to introduce to you State Senator James of Joplin.

(Applause)

SENATOR JAMES: Mr. Chairman, distinguished guests, ladies and gentlemen, Delegates. It is my pleasure in behalf of my colleagues in the senate to extend congratulations to the Convention, to your officers, in this auspicious event marking the completion of the drafting and the signing of the

STATE PUBLISHING CO. HELENA, MONT.

document that henceforth will be known as the Constitution of -- the Montana Constitution of 1972. It is my hope and wish, desire, and my prayer that after sufficient time has passed and after sufficient time has been taken by the public, including myself, to thoroughly read, study, analyze and digest this document, that it will be said that it is found to be adequate for our needs, sufficient for our liking and our desires, and that we may then be inspired to say, the Constitution is well written. You have done a good job, good and faithful Delegates -- a very, very good job. Thank you.

(Applause)

VICE PRESIDENT TOOLE: Thank you, Senator James. The Honorable Thomas Haines, the dean of the House of Representatives, is not with us, apparently. We had hoped that he would be able to make it; unless he's hiding in the back of the Hall some place, we regretfully have to announce that Tom couldn't make it. The Honorable Earl Old Person, chairman of the Blackfeet Tribal Council, was scheduled to be with us but likewise had to cancel out at the last minute, but it gives me a great deal of pleasure to introduce to you the next lady, Mrs. Firman Brown. She has been in this proceeding since the beginning. She was a member of the Constitutional Revision Commission, the Constitutional Convention Commission. She has studied constitutional history and is writing a dissertation on that now at the University of Montana, and there is probably

STATE PUBLISHING CO. HELENA, MONT.

no one who has exhibited more profound interest and continuing interest in this process than Marge Brown. It gives me a great deal of pleasure to call on her at this time.

(Applause)

MRS. BROWN: Mr. Chairman and members of the Convention, it's a tremendous privilege to be here. I am sure I speak for hundreds of Montanans who, in official and unofficial ways in their cities and towns and counties and at the state level, have hoped for many, many years that Montana in our time might rewrite a Constitution. From an historical view, I don't think anyone can ever accuse you of borrowing piecemeal from anywhere. This is a Montana Constitution, the product of your labors. I think it's a fine Constitution. I have high hopes for the new beginning in public affairs in Montana that you have laid the basis for us all. And many thanks to you, and congratulations on finishing your endeavors with all the energy and dedication that you have evidenced. Thank you.

(Applause)

VICE PRESIDENT TOOLE: Thank you, Marge. Miss Elaine Koyama has been with us before. She is the Governor of Girls State and we are very pleased to have her again. Elaine.

(Applause)

MISS KOYAMA: When I first heard that I was coming, or that I had the opportunity to come, my family and I sat

STATE PUBLISHING CO. HELENA, MONT.

down and my father said, when I was your age I wasn't even out of the county yet. He never even had the opportunity to come to the Capitol. And here I am, seventeen years old, I have been working at the Capitol for two weeks previously, I am the Governor of Girls State, which is a feat in itself, and I'm just filled with awe that Elaime Koyama is standing before you speaking at the Constitutional Convention, a document that you have put together that will be presented to the people. I will be able to vote for or against the Constitution -- hopefully for. I know that all the people here will be voting and that means that the people who elected all the Delegates and the people who are the Delegates, and even myself, will be able to vote for what's going to be ruling us -- the thing that is going to tell us what we can or cannot do, the thing that gives us our freedom and also restricts our freedom. That means, you know, that our United States is one of the few countries, the very few, that let the people decide. All I can say is thank you, and thank you for working for all the people of Montana and in turn for the United States. It's a fantastic time to be here, and all I can say is thank you.

(Applause)

VICE PRESIDENT TOOLE: Mr. Chris Milodragovich is the lieutenant governor of Boys State and it gives me a lot of pleasure to call on him at this time.

(Applause)

STATE PUBLISHING CO. HELENA, MONT.

MR. MILODRAGOVICH: Mr. President, honored guests, ladies and gentlemen. I am certainly proud and pleased that I was asked to speak to you today. Very few young people hav the opportunity to address this historic assembly. I feel particularly honored as the present governor of Montana Boys State -- excuse me -- lieutenant governor, and also as a new voter in Montana. Boys State was one of the greatest experiences of my life, not merely because I was elected to a publi office, but because I saw the workings of government really in action. As a result of Boys State, I feel I am better prepared to meet the challenge of a young citizen in our great democracy. On behalf of all Boys Staters and young people in general, I wish you well in your closing deliberations. We are all watching for your finished article and hope it will be one which we can accept for several generations. We realize your task is not an easy one. We applaud your hard work, your dedication, and so I shall close with a mere thank you.

(Applause)

VICE PRESIDENT TOOLE: The Delegates will recall that early in January, before we convened, the YMCA Youth Constitutional Convention met in this room, and drew a Constitution which we considered to be a model, and which was a credit to these young people. We have the president of that constitutional convention with us, Mr. John Elliott.

(Applause)

STATE PUBLISHING CO. HELENA, MONT.

MR. ELLIOTT: I would first of all like to thank everyone for inviting me to represent the Youth Constitutional Convention. It is certainly an honor for me and I'm sure the delegates will thank you for me also. It's kind of interesting that the constitution we drew up was quite a bit different from yours. It's quite a bit different in a number of ways, mostly because it involves a lot of change. Good examples are, we almost completely appoint the major executive offices, and for the judicial system we adopted a plan similar to the Missouri proposal, that I believe was introduced here. But, there's a reason for this. That's because we weren't answerable to anyone but ourselves, and when you're in a situation like that, you can do just about anything you want, and we did. But you, in turn, are in quite a different situation. I always felt that when people criticized the convention they had to realize one thing, that you were walking a kind of tightrope -- in between pleasing the voters of Montana who are, well, pretty conservative in nature, but at the same time wanting to change the Constitution to something more workable and viable. I think you have done that. You have changed it in many respects. You have done a lot of work and I would like to commend you for that work. And, thank you again for inviting me to speak.

(Applause)

VICE PRESIDENT TOOLE: Thank you, John. Our last

STATE PUBLISHING CO. HELENA, MONT.

young person, and you see we have them well represented here because they are the people who will be living under the document that we have written, if it is ratified, is Joe Holland, president of the Montana Student Association.

(Applause)

MR. HOLLAND: Thank you, Mr. Vice President. Mr. President, members of the Constitutional Convention, ladies and gentlemen. I am going to make this real short and I hope it will express my feelings toward this gathering of Delegates. I come to you, representing the Montana Student Presidents Association. These are the presidents of all the colleges and universities in the state of Montana, and as a representative, I hope I can speak as a representative of some thirty thousand plus college and university students in this state. As a student body president from one of our units, I have been given a lot of feedback from various articles -- news articles, TV articles, TV programs -- on the work that the Con-Con has done, and I must say that student reaction has been good. We are a group of very appreciative people in the work that has been set forth in the Constitutional Convention, and hopefully the students in the universities and colleges in Montana will be satisfied with your work and will accept it as their guidelines to proceed with another leg in Montana's history, this being the kick-off point in that important leg. For your work, your time, your effort, I thank you very much on behalf of the

STATE PUBLISHING CO. HELENA, MONT.

-- all the students in the state. Thank you.

(Applause)

VICE PRESIDENT TOOLE: Thank you, Joe. Fellow Delegates and distinguished guests, the brief remarks I am about to make I consider to be the most significant and meaningful of anything I have said on this floor during this Convention. In the lifetime of all of us, we encounter a few rare individuals whose personal qualities elevate him far above those surrounding him. Since last November, I have been privileged to be closely associated with such a man. This Convention has completed its work within its alloted time and within the amount appropriated by the legislative assembly. I would like to remind the Delegates at this time that this was accomplished without once resorting to the gag rule. The man to whom I refer cajoled us but he never commanded us. When toughness was required, he exhibited toughness. In an enterprise where fairness was vital, he was invariably fair. When physical endurance was required, it was he who set the standard for others to follow. When patient explanation of complex issues was demanded, he never failed us. He was effectively stern but inexorably patient. His anger never flared and his sense of humor never failed. And, ladies and gentlemen, long after the rest of us were sleeping snug in our beds, this man labored over financial and administrative details. No item of unnecessary cost escaped his attention. Ladies and gentlemen,

STATE PUBLISHING CO. HELENA, MONT.

we meet here today to sign a great and progressive document which holds great promise for future generations of Montanans. In large measure, our accomplishment was made possible by the labors and the talents of this one man. Ladies and gentlemen, I give you your President, Leo Graybill, Jr.

(Applause)

PRESIDENT GRAYBILL: Mr. Vice President and ladies and gentlemen of the Montana Constitutional Convention. First of all, John, I want to thank you for what were obviously marvelously pleasant remarks from you. I hope I have done some things to justify them, and I want to say now that if this Convention has been able to operate well and in a bi-partisan spirit, which we all talked about in November, it is largely due to the services of John Toole, who has done a great deal to help make the thing work in that vein, and I think we all appreciate that partisanship ended, I guess, with my election.

(Applause)

PRESIDENT GRAYBILL: And for that we have John Toole to thank. I also have been interested in listening to the remarks of the administration and of the legislative representatives, and I agree with them that they should carefully read the document before deciding whether or not they are for or against this Constitution. I was most interested in listening to the remarks of these young people who have spoken to us

STATE PUBLISHING CO. HELENA, MONT.

because they do represent, if we are successful here and if this is ratified, they do represent the people most concerned and the people for whom this Constitution will be long the basic law. But, actually, I come here today to talk with my friends, the Delegates, and it is to you that I wish to address my remarks. We are about to complete our work here by signing the document we propose as the Constitution of the state of Montana. The part you have played in the drafting of it will be written in the history of Montana. As the one privileged to have acted as your chairman during these proceedings, I want to seize this opportunity to record some observations about this body and to praise you. Our weeks together here have been a courageous and a meaningful encounter. You know, when we first met in November, we were skeptical. We were novices and we were unsure. You were, however, men and women of deep convictions and dedication to the cause of writing our new Constitution for Montana. You were dedicated to solving some of the pressing problems of our times, but also preserving the best of our present Constitution. We were a diverse group, eager to investigate, to draft proposals and to take part in debate. Now, by your efforts and your knowledge, we have enlightened and educated eachother, and also others who have listened to our proceedings. Sometimes your proposals, individually, were accepted by the body or amended and adopted, and you have shown no undue pride or vanity. Sometimes your

STATE PUBLISHING CO. HELENA, MONT.

ideas were not fully accepted by the body, and when the Convention rejected the ideas you advanced, you showed neither disappointment nor resentment. You simply perservered, and I commend you for it. Rarely has a group of men and women had a task so pressing, so difficult and so monotonous, but that task was welcomed by you as a challenge and an opportunity to devise, revise and reshape the government of Montana. You have always gone ahead with the worthy goal of making Montana's government more responsible and more responsive to the people, both now and in the future. And, so, I wish to offer you my sincere praise and congratulations for a job well done. I wish to commend you for your deep conviction and common sense, your clear judgment and heroic endurance, and above all, for your lofty and serene sense of duty, always with an eye to the future. The job of thinking, reasoning and writing this Convention is done. Now, I can only urge that you start working for its ratification on June sixth. We must personally reach everyone everywhere with the truths that are embodied in this document. It will not be easy for the Constitution is not yet really understood. There are many who are skeptical of it and some who are hostile toward it, even without reason. George Washington said to the drafters of the federal Constitution before it was written -- If, to please the people, we offer what we ourselves disapprove, how can we defend our work? Let us raise a standard to which the wise and honest can re-

STATE PUBLISHING CO. HELENA, MONT.

pair. The event is in the hand of God. This body has raised the standard to which the wise and honest can repair. Benjamin Franklin, who also participated in that convention, said of the work of the federal convention: When a carpenter is making a table and wants to fit the boards together, he has to plane a little off from each edge. So, in this Constitution, each side would have to give way a little in order to fit together all the pieces of a new government. Here in the Montana Convention, this wisdom has been clearly shown. In the general spirit of compromise our work has been completed. The Constitutional Convention has not been the work of any one man, nor has it been the work of the leading nine or ten men. It has truly been the work of all. Your ideas, your defense of your ideas have contributed, but so has your opposition to and your compromise with the ideas of others. And, in the end, your acceptance of the counsel and thought of your fellow Delegates has allowed us to generally agree on the principles we have included in our Constitution. And even though we hope we will walk out of this hall as a body agreed on this document, there may be some of us yet who will not sign, who cannot sign, having yielded more than they can reckon with. To any of those, I can only recommend your own conscience as a guide in your final decision, but those will be only a few and I will respect their decision. To the others who happily sign and who worked toward this moment, I urge also your pledge to work

STATE PUBLISHING CO. HELENA, MONT.

for ratification. The document we have made is worthy of that effort, and I would like to repeat that the event is in the hands of God. My heartfelt good wishes for your continued interest and involvement in state government. Montana is worthy of that and of our efforts. Thank you.

(Applause)

VICE PRESIDENT TOOLE: I was about to ask Mrs. Warden and Mr. Murray to come to the rostrum, but they're already enroute. And, Mr. President, will you please come up here?

DELEGATE WARDEN: This is always the time of the goodies, and it gives me great pleasure on behalf of all ninety-nine Delegates to present to the one Delegate who has been our Chairman and our President and who has guided us through this, two gifts from the body. Would you open this one first?

PRESIDENT GRAYBILL: Are you sure I can open it? I don't know. Should I save the paper? Did the Convention buy it?

(Laughter)

DELEGATE WARDEN: They threw that in for good measure.

PRESIDENT GRAYBILL: My goodness, it's a marvelous plaque. It says: Leo Graybill, Jr., President of the 1971-72 Montana Constitutional Convention. In recognition of your

STATE PUBLISHING CO. HELENA, MONT.

fairness, dedication, and outstanding leadership. From the other ninety-nine Delegates. Thank you so much.

(Applause)

DELEGATE WARDEN: Leo, that was to hang on the wall of your office. This is to take home and enjoy.

(Mrs. Warden presented Mr. Graybill with a second gift.)

PRESIDENT GRAYBILL: Do I open it? Wow! The West of William H. Ashley, 1822-1838. I'm sure it is a historically significant document about the history of the West and it is beautifully printed and engraved and bound in leather. I guess we'll have to build a library.

(Laughter)

PRESIDENT GRAYBILL: It's marvelous. Thank you very much.

DELEGATE MURRAY: And now, Mr. President, on behalf of the other ninety-nine Delegates, may I read this letter to you: (Reading) The Honorable Leo Graybill, Jr., President, Montana Constitutional Convention, Helena, Montana. Dear Mr. President: We, the Delegates to the 1971-72 Montana Constitutional Convention, hereby express to you our sincere gratitude for the excellent manner in which you have conducted the affairs of this Convention. We stand in awe at your physical stamina, mental ability, infinite patience and total fairness. Regardless of the ultimate outcome of our labors, we want you to know

STATE PUBLISHING CO. HELENA, MONT.

that in our unanimous opinion, you have left a giant imprint on Montana's history. We wish you well and invoke Divine blessings on you all the days of your life. Sincerely. (End reading)

(Applause)

PRESIDENT GRAYBILL: Well, I must say that that's almost overwhelming and I just want to thank you very much, and I want to say that there's never been a time nor a Delegate that's ever had -- done anything to make it hard and I appreciate your sincere feelings here. Thank you very much.

(Applause)

VICE PRESIDENT TOOLE: Members of the Convention, we will now proceed to sign our new Constitution, and at this time, I want to introduce someone to you, well known to all of you, who is involved in the process of getting this document signed and recorded -- Mr. Frank Murray, secretary of state. Frank, would you stand up and take a bow, please?

(Mr. Murray stood to receive the applause of the assembly.)

VICE PRESIDENT TOOLE: Will the President now go down and sign the new Constitution, and have his signature attested by Mrs. Bowman, the Secretary?

(President Graybill affixed his signature.)

(Applause)

STATE PUBLISHING CO. HELENA, MONT.

VICE PRESIDENT TOOLE: Now, fellow Delegates, as the Clerk calls your name, so many Delegates as wish to sign the new Constitution will do so. The Clerk will call the names of the Delegates in alphabetical order, and I think you have been instructed on how to come up and what route to take getting back to your seats.

CLERK HANSON: Magnus Aasheim, District Number Four.

(Delegate Aasheim affixed his signature.)

CLERK HANSON: John H. Anderson, Jr., District Twenty-One.

(Delegate Anderson affixed his signature.)

CLERK HANSON: Oscar L. Anderson, District Number Three.

(Delegate Anderson affixed his signature.)

CLERK HANSON: Harold Arbanas, District Number Thirteen.

(Delegate Arbanas affixed his signature.)

CLERK HANSON: Franklin Arness, District Number Twenty-Three.

(Delegate Arness affixed his signature.)

CLERK HANSON: Cedor B. Aronow, District Number Fifteen.

(Delegate Aronow affixed his signature.)

CLERK HANSON: William H. Artz, Bill, District Number Thirteen.

STATE PUBLISHING CO. HELENA, MONT.

(Delegate Ask affixed his signature.)

CLERK HANSON: Thomas M. Ask, District Number Nine.

(Delegate Ask affixed his signature.)

CLERK HANSON: Betty Babcock, District Twelve.

(Delegate Babcock affixed her signature.)

CLERK HANSON: Lloyd Barnard, District Five.

(Delegate Barnard affixed his signature.)

CLERK HANSON: Grace C. Bates, District Eleven.

(Delegate Bates affixed her signature.)

CLERK HANSON: Don E. Belcher, District Nine.

(Delegate Belcher affixed his signature.)

CLERK HANSON: Ben E. Berg, Jr., District Eleven.

(Delegate Berg affixed his signature.)

CLERK HANSON: E. M. Berthelson, District Number Fifteen.

(Delegate Berthelson affixed his signature.)

CLERK HANSON: Chet Blaylock, District Eight.

(Delegate Blaylock affixed his signature.)

CLERK HANSON: Virginia H. Blend, District Number Thirteen.

(Delegate Blend affixed her signature.)

CLERK HANSON: Geoffrey L. Brazier, District Number Twelve.

(Delegate Brazier affixed his signature.)

CLERK HANSON: Bruce M. Brown, District Two.

STATE PUBLISHING CO. HELENA, MONT. 3

(Delegate Brown affixed his signature.)

VICE PRESIDENT TOOLE: (Gaveling for order) Let's have quiet so the names can be heard.

CLERK HANSON: Mrs. Daphne Bugbee, District Eighteen.

(Delegate Bugbee affixed her signature.)

CLERK HANSON: William A. Burkhardt, District Twelve.

(Delegate Burkhardt affixed his signature.)

CLERK HANSON: Marjorie Cain, District Twenty-Three.

(Delegate Cain affixed her signature.)

CLERK HANSON: Bob Campbell, District Eighteen.

(Delegate Campbell affixed his signature.)

DELEGATE CAMPBELL: The Constitution is our child. Contrary to Governor Anderson's address, it is not for sale to the people of Montana. It is being placed up for adoption.

(Applause)

CLERK HANSON: Jerome J. Cate, District Eight.

(Delegate Cate affixed his signature.)

CLERK HANSON: Richard J. "Rick" Champoux, District Sixteen.

(Delegate Champoux affixed his signature.)

CLERK HANSON: Lyman W. Choate, District Two.

(Delegate Choate affixed his signature.)

CLERK HANSON: Max Conover, District Eight.

(Delegate Conover affixed his signature.)

STATE PUBLISHING CO. HELENA, MONT.

CLERK HANSON: C. Louise Cross, District Three.

(Delegate Cross affixed her signature.)

CLERK HANSON: Wade J. Dahood, District Nineteen.

(Delegate Dahood affixed his signature.)

CLERK HANSON: Carl M. Davis, District Twenty-One.

(Delegate Davis affixed his signature.)

CLERK HANSON: Douglas Delaney, District Ten.

(Delegate Delaney affixed his signature.)

CLERK HANSON: Maurice Driscoll, District Twenty.

(Delegate Driscoll affixed his signature.)

CLERK HANSON: Dave Drum, District Eight.

(Delegate Drum affixed his signature.)

CLERK HANSON: Dorothy Eck, District Eleven.

(Delegate Eck affixed her signature.)

CLERK HANSON: Marian S. Erdmann, District Thirteen.

(Delegate Erdmann affixed her signature.)

CLERK HANSON: Leslie Joe Eskildsen, District Five.

(Delegate Eskildsen affixed his signature.)

CLERK HANSON: Mark Etchart, District Four.

(Delegate Etchart affixed his signature.)

CLERK HANSON: James R. Felt, District Eight.

(Delegate Felt affixed his signature.)

CLERK HANSON: Donald R. Foster, District Ten.

(Delegate Foster affixed his signature.)

CLERK HANSON: Noel E. Furlong, District Sixteen.

STATE PUBLISHING CO. HELENA, MONT.

(Delegate Furlong affixed his signature.)

CLERK HANSON: J. C. Garlington, District Eighteen.

(Delegate Garlington affixed his signature.)

CLERK HANSON: E. S. "Erv" Gysler, District Fourteen.

(Delegate Gysler affixed his signature.)

CLERK HANSON: Otto T. Habedank, District Three.

(Delegate Habedank affixed his signature.)

CLERK HANSON: R. S. "Bob" Hanson, District Seventeen.

(Delegate Hanson affixed his signature.)

CLERK HANSON: Rod Hanson, District Fifteen.

(Delegate Hanson affixed his signature.)

CLERK HANSON: Gene Harbaugh, District Four.

(Delegate Harbaugh affixed his signature.)

CLERK HANSON: Paul K. Harlow, District Twenty-Three.

(Delegate Harlow affixed his signature.)

CLERK HANSON: George Harper, District Twelve.

(Delegate Harper affixed his signature.)

CLERK HANSON: Dan W. Harrington, District Twenty.

(Delegate Harrington affixed his signature.)

CLERK HANSON: George B. Heliker, District Eighteen.

(Delegate Heliker affixed his signature.)

CLERK HANSON: David L. Holland, District Twenty.

STATE PUBLISHING CO. HELENA, MONT.

(Delegate Holland affixed his signature.)

CLERK HANSON: Arnold W. Jacobsen, District Sixteen.

(Delegate Jacobsen affixed his signature.)

CLERK HANSON: George H. James, District Twenty-Three.

(Delegate James affixed his signature.)

CLERK HANSON: Torrey B. Johnson, District One.

(Delegate Johnson affixed his signature.)

VICE PRESIDENT TOOLE: (Gaveling for order) Now, Members of the Convention, I realize this is a long, drawn out affair. It is also a most important and a most historical one and it will not present us with the right kind of impression to the media if the membership is wandering around and engaging in idle conversation, and I hope you will bear with us while the ceremony goes on and take your seats and be reasonably quiet.

CLERK HANSON: Thomas F. Joyce, District Twenty.

(Delegate Joyce affixed his signature.)

CLERK HANSON: A. W. Kamhoot, District Six.

(Delegate Kamhoot affixed his signature.)

CLERK HANSON: Robert Lee Kelleher, District Eight.

(Delegate Kelleher affixed his signature.)

CLERK HANSON: John H. Leuthold, District Seven.

(Delegate Leuthold affixed his signature.)

CLERK HANSON: Jerome T. Loendorf, District Twelve.

STATE PUBLISHING CO. HELENA, MONT.

(Delegate Loendorf affixed his signature.)

CLERK HANSON: Peter "Pete" Lorello, District Nineteen.

(Delegate Lorello affixed his signature.)

CLERK HANSON: Joseph H. McCarvel, District Nineteen.

(Delegate McCarvel affixed his signature.)

CLERK HANSON: Russell C. McDonough, District Three.

(Delegate McDonough affixed his signature.)

CLERK HANSON: Mike McKeon, District Nineteen.

(Delegate McKeon affixed his signature.)

CLERK HANSON: Charles B. McNeil, District Seventeen.

(Delegate McNeil affixed his signature.)

CLERK HANSON: Charles H. Mahoney, District Twelve.

(Delegate Mahoney affixed his signature.)

CLERK HANSON: Mrs. Rachell K. Mansfield, District Fourteen.

(Delegate Mansfield affixed her signature.)

CLERK HANSON: Fred J. Martin, District Eleven.

(Delegate Martin affixed his signature.)

CLERK HANSON: J. Mason Melvin, District Eleven.

(Delegate Melvin affixed his signature.)

CLERK HANSON: Lyle R. Monroe, District Thirteen.

STATE PUBLISHING CO. HELENA, MONT.

(Delegate Monroe affixed his signature.)

CLERK HANSON: Marshall Murray, District Sixteen.

(Delegate Murray affixed his signature.)

CLERK HANSON: Robert B. "Bob" Noble, District Thirteen.

(Delegate Noble affixed his signature.)

CLERK HANSON: Richard A. Nutting, District Seven.

(Delegate Nutting affixed his signature.)

CLERK HANSON: Mrs. Katie Payne, District Eighteen.

(Delegate Payne affixed her signature.)

CLERK HANSON: Catherine Pemberton, District One.

(Delegate Pemberton affixed her signature.)

CLERK HANSON: Donald Rebal, District Thirteen.

(Delegate Rebal affixed his signature.)

CLERK HANSON: Arlyne E. Reichert, District Thirteen.

(Delegate Reichert affixed her signature.)

CLERK HANSON: Mrs. Mae Nan Robinson, District Eighteen.

(Applause)

(Mrs. Robinson affixed her signature.)

CLERK HANSON: Richard B. Roeder, District Eleven.

(Delegate Roeder affixed his signature.)

CLERK HANSON: George W. Rollins, District Eight.

(Delegate Rollins affixed his signature.)

STATE PUBLISHING CO. HELENA, MONT.

CLERK HANSON: Miles Romney, District Twenty-Two.

(Delegate Romney affixed his signature.)

CLERK HANSON: Sterling Rygg, District Sixteen.

(Delegate Rygg affixed his signature.)

CLERK HANSON: Don Scanlin, District Number Eight.

(Delegate Scanlin affixed his signature.)

CLERK HANSON: John M. Schiltz, District Eight.

(Applause)

(Delegate Schiltz affixed his signature.)

CLERK HANSON: Henry L. Siderius, District Sixteen.

(Delegate Siderius affixed his signature.)

CLERK HANSON: Clark E. Simon, District Eight.

(Delegate Simon affixed his signature.)

CLERK HANSON: Carman Skari, District Fourteen.

(Delegate Skari affixed his signature.)

CLERK HANSON: M. Lynn Sparks, District Twenty.

(Applause)

(Delegate Sparks affixed her signature.)

CLERK HANSON: Lucile Speer, District Eighteen.

(Applause)

(Delegate Speer affixed her signature.)

CLERK HANSON: R. J. Studer, Sr., District Eight.

(Delegate Studer affixed his signature.)

(Applause)

CLERK HANSON: Mrs. John Justin Veronica Sullivan,

STATE PUBLISHING CO. HELENA, MONT.

District Twenty.

(Delegate Sullivan affixed her signature.)

CLERK HANSON: William H. Swanberg, District Thirteen.

(Delegate Swanberg affixed his signature.)

CLERK HANSON: John H. Toole, District Eighteen.

(Applause)

(Delegate Toole affixed his signature.)

CLERK HANSON: Mrs. Edith Van Buskirk, District Number Fourteen.

(Delegate Van Buskirk affixed her signature.)

CLERK HANSON: Robert Vermillion, District Fifteen.

(Delegate Vermillion affixed his signature.)

CLERK HANSON: Roger A. Wagner, District Number Four.

(Delegate Wagner affixed his signature.)

CLERK HANSON: Jack K. Ward, District Twenty-Two.

(Delegate Ward affixed his signature.)

CLERK HANSON: Margaret S. Warden, District Thirteen.

(Delegate Warden affixed her signature.)

CLERK HANSON: Archie O. Wilson, District Six.

(Applause)

(Delegate Wilson affixed his signature.)

CLERK HANSON: Robert F. Woodmansey, District Thir-

STATE PUBLISHING CO. HELENA, MONT.

teen.

(Applause)

(Delegate Woodmansey affixed his signature.)

SECRETARY BOWMAN: Mr. President, all one hundred Delegates have signed.

(Applause)

VICE PRESIDENT TOOLE: Mr. Murray will now affix the official Seal to the Constitution.

(Secretary of State Murray affixed the Great Seal of the State of Montana to the Constitution.)

MR. MURRAY: Your order has been obeyed.

VICE PRESIDENT TOOLE: Thank you, Mr. Murray.

(Applause)

VICE PRESIDENT TOOLE: All of the speculation about who would and who would not sign has now officially terminated. And with that, I will turn the Chair back to our President.

PRESIDENT GRAYBILL: Without objection, we will be on Order of Business Number Eleven, Announcements. The Chair has been asked to announce that on adjournment the four procedural committees who did not have pictures taken, we'll take some pictures right here in front as quickly as possible of the four procedural committees and the officers, as soon as we adjourn. The Chair has also been asked to announce that the printing presses have been rolling while we have been sitting

STATE PUBLISHING CO. HELENA, MONT.

here and if you will all allow, the Pages will, within about twenty minutes to a half an hour, put upon your desks fifty copies of the explanation of the Constitution and for those who are from out of town, at least twenty-five copies of the Constitution. We are still stapling and we're not quite up, so those of you from Helena may have to pick up your copies of the Constitution a little later. We want those who will be leaving town to be able to take as many as possible back with them. We have had -- for the benefit of the audience -- quite a difficult time stapling ten thousand copies of the Constitution, and if you will just be a little patient, within fifteen or twenty minutes after adjournment, the Pages will have put on your desks this material which you can take home with you so that you'll have it available. Are there other announcements?

(No response)

PRESIDENT GRAYBILL: Very well, Mr. Eskildsen, have you a motion?

DELEGATE ESKILDSEN: Mr. President, many words have been spoken. Many hours of deliberation, working from morning until night. Our job is now coming to a close. But, from this hour on we should dedicate ourselves to being available to our constituents so they may find answers to the many questions that will be in their minds. Mr. President, there being no further business concerning the drafting of the proposed

STATE PUBLISHING CO. HELENA, MONT.

Constitution to come before us, and our draft being completed and signed, I move that the Constitutional Convention at this hour, twelve o'clock noon, this day, March 24, 1972, be adjourned sine die.

PRESIDENT GRAYBILL: So many as shall be in favor of the motion to adjourn sine die say Aye.

DELEGATES: Aye.

PRESIDENT GRAYBILL: Opposed, No.

DELEGATES: (No audible response)

PRESIDENT GRAYBILL: It is so ordered.

(Applause)

(Convention adjourned sine die at 12:00 o'clock, noon, March 24, 1972.)

PRESIDENT GRAYBILL: May I have your attention? May I have your attention? Will you please remain standing. I, not looking at my green sheet, overlooked the Benediction. At this time, the Most Reverend Raymond Hunthausen, the Bishop of Helena, will give us his Invocation. Excuse me, Bishop.

BISHOP HUNTHAUSEN: Let us pray. Almighty God, our Father, in Your love You direct us to strive constantly for understanding, justice and love among ourselves. Mindful of this, we pray today that the sincere efforts made by this Constitutional Convention to improve the order and condition of our lives, may effectively bring us closer to Your promised

STATE PUBLISHING CO. HELENA, MONT.

time, that time when true hospitality and peace will reign, when we shall beat our spears into pruning hooks and brother will not raise his hand against brother. We thank You, Father, for Your goodness toward us, shown in so many ways, for the freedom we possess in our beautiful and bountiful land. We thank You for the friendships that were forged here among our people, and especially we thank You for these dedicated men and women of the Constitutional Convention, struggling to bring more of goodness and peace, respect and dignity into our lives. Finally, we pray that You continue to give all of us, Your people, the strength necessary to persevere in our dedication, our love for You and for one another. We ask this in the name of Christ, our Lord. Amen.

-o0o-

STATE PUBLISHING CO. HELENA, MONT.

C E R T I F I C A T E

STATE OF MONTANA)
: ss.
County of Lewis & Clark.)

I, MARIE E. DURKEE, a Notary Public in and for the State of Montana, duly commissioned, qualified and acting, hereby certify that I was the reporter for the Montana Constitutional Convention from January 17, 1972 to March 24, 1972, inclusive; that the transcript made of the proceedings for this period is contained on pages 368 to 9,243, inclusive; that the proceedings were by me, or under my direct supervision, taken down in shorthand and by means of a tape recorder and later transcribed into typewriting, as hereinbefore contained; that the proceedings have been faithfully and accurately transcribed to the best of my ability and of those working under my supervision.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal thereto at Helena, Montana, in the County of Lewis and Clark, this 20th day of November, 1972.

Marie E Durkee

(S E A L)

Notary Public for the State of Montana. Residing at Helena.
My Commission expires 3/8/75.

STATE PUBLISHING CO. HELENA, MONT.